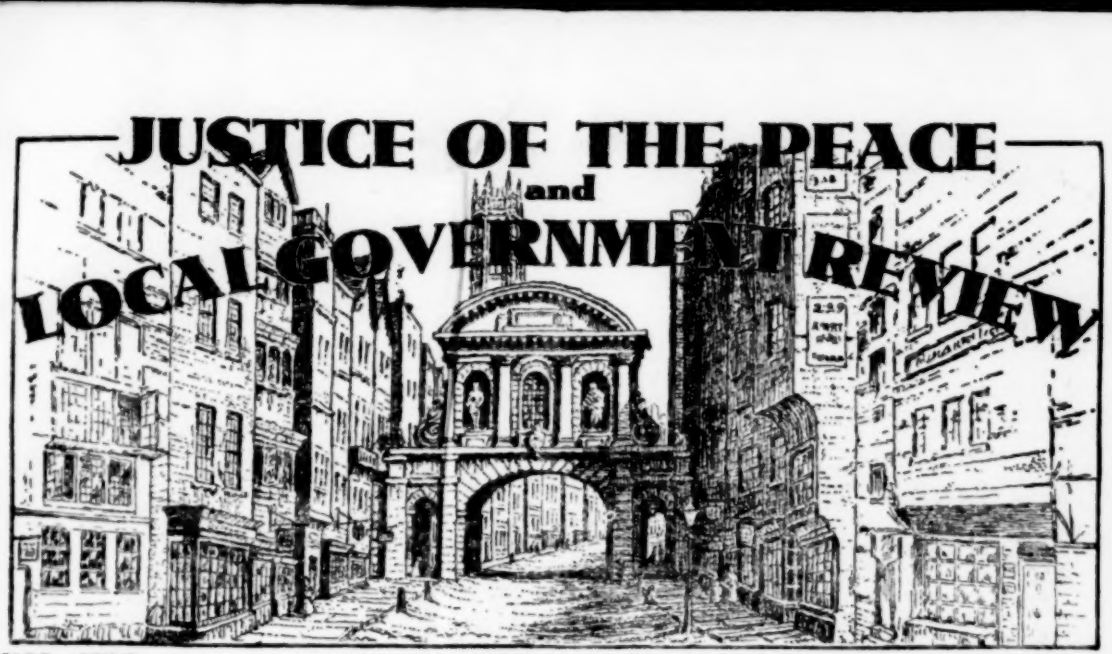

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Town Hall,
Peterborough.
January 2, 1952.

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Town Hall,
Huddersfield.

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Petty Sessional Division of Bromley

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T. W. DRAYCOTT,
Clerk to the Justices.

The Court House,
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Bromley, Kent.

CITY OF LEEDS

Appointment of Additional Full-time Male Probation Officer

APPLICATIONS are invited for the above appointment.

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The successful candidate will be required to pass a medical examination.

Applications, stating age and qualifications and experience, together with copies of not more than two recent testimonials, must reach the undersigned not later than Saturday, February 16, 1952.

T. C. FEAKES,
Secretary to the Probation Committee.

The Town Hall,
Leeds, 1.

LANCASHIRE No. 3 COMBINED PROBATION AREA

Appointment of Female Probation Officer

APPLICATIONS are invited for the appointment of a female probation officer for the Lancashire No. 3 Combined Probation Area (Blackpool County Borough and Kirkham Petty Sessional Division). Applicants must be between the ages of twenty-three and forty unless already serving as full-time probation officers. The appointments and salary will be subject to the Probation Rules, 1949-1950, and the successful applicant may be required to pass a medical examination.

Applications, stating age, qualifications and experience, accompanied by two recent testimonials, should reach me not later than February 11, 1952.

CLIFFORD F. JOHNSON,
Secretary to the Probation Committee.

Justices' Clerk's Office,
55, Cookson Street,
Blackpool.

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Appointment of Female Probation Officer

APPLICATIONS are invited for the above whole-time appointment. Applicants must be not less than 23 nor more than 40 years of age, except in the case of whole-time serving officers, and persons who have satisfactorily completed a course of training approved by the Secretary of State.

The appointment will be subject to the Probation Rules, 1949 and 1950, and to the Local Government Superannuation Act, 1937, the successful candidate being required to pass a medical examination.

A car allowance or motor car will be provided.

Applications, stating age, qualifications and experience, together with the names and addresses of two persons to whom reference can be made should reach the undersigned not later than January 23, 1952.

G. S. GREEN,
Clerk to the Combined Committee.

County Magistrates' Court,
Strangeways,
Manchester, 3.

Justice of the Peace
and
Local Government Review
[ESTABLISHED 1837.]

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NOTES of the WEEK

Adoption by Overseas Residents

It is familiar enough that in most contexts " residence " is a question of fact. Many of our readers are interested in the Adoption Act, 1950, and will wish to take note of the decision of Harman, J., in *Re Adoption Application No.* 52/1951 (1951) 115 J.P. 625. Section 2 (5) of the Act precludes the making of an adoption order by the court where the applicant is not resident in England, although there is nothing to prevent an applicant who is so resident from going elsewhere, once the order has been made, and taking the child. This last point may be unsatisfactory, looking to the presumed policy of the subsection ; it may, on the other hand, be felt to be impossible to enforce continued residence here, once the adoption order has been made, for the sake of ensuring continued supervision (if necessary) by English authorities. All that Parliament could do was to insist on residence here at the time of the making of the order.

It seems that, where British subjects serving the Crown overseas have wished, when in England on furlough, to adopt a child, the court has hitherto been ready to regard this temporary residence as enough to satisfy the subsection. In the case now under notice, Harman, J., held that this was wrong, and in a fairly long judgment examining all the authorities, refused to accede to an application where a British Civil Servant stationed in Nigeria and his wife proposed to adopt a child, and were admittedly in England only for a few months, their normal place of residence being still in Africa. The policy of s. 2 (5) may be right or wrong, but, assuming that policy to be correct, we think the decision in this case was sound. As a purely incidental matter, we wonder why it is necessary to give some cases before the courts such prosaic, not so say inconvenient, titles. There would have been nothing derogatory to the applicants in using their names in the title of the case ; it would then be possible for the ordinary person to remember it, as he can hardly be expected to do by the name of *Re Adoption Application.*

Juvenile Offenders and Publicity

The provisions of s. 49 of the Children and Young Persons Act, 1933, which prohibit the publication of names and other particulars likely to lead to the identification of children and young persons appearing in a juvenile court, are not universally approved. It is often argued that publicity might act as a deterrent to juvenile offenders and also remind parents of their responsibilities. The power of the court or the Secretary of State to relax the restrictions, in the interests of justice, is rarely used.

It is not always remembered that s. 49 applies only to proceedings in juvenile courts, and that the press is free to publish names and other details relating to juveniles appearing in other courts, subject to the restrictions contained in s. 39 of the Children and Young Persons Act, 1933, with respect to certain types of offence.

We noticed recently that in reporting a case heard at quarter sessions, where two boys aged respectively seventeen and sixteen, were put on probation for being found by night in possession of housebreaking implements and being found in a building with intent to commit felony, the name of the elder boy was given, but not that of the younger. This may have been in pursuance of a general policy on the part of the editor to spare juveniles from publicity even when they appear in an adult court. It would not have been an offence, however, to publish the boy's name and address.

A Costly Family

We are getting used to the idea that maintenance in institutions is an expensive business, although it is sometimes suggested that some of the institutions are just a little above the standard that is really necessary. Even in these days, however, it is rather startling to find something like a £1,000 a year being spent out of public funds upon one family.

The Manchester Guardian reports the case of a man with a wife and six children summoned for orders in respect of their maintenance. It was said that the family had been evicted from a corporation house in Middlesbrough owing to non-payment of rent, the family being placed in institutions at a total cost of £23 a week. The stipendiary magistrate made orders totalling £3 12*s.* a week, so that public funds provide something approaching £20 a week.

The learned magistrate asked the pertinent question whether it would not have been cheaper to let the family live rent free, to which the corporation solicitor made the reply that it would not be judicious.

We do not suggest that a man earning £6 10*s.* a week as this man was, would find it easy to maintain such a family, even with the help of the family allowances, but we have little doubt that many families are managing on such an income. In this case, for all we know, there may have been illness or some unexpected expense which caused the rent to become in arrear. Be that as it may, it seems a thousand pities that the family should be broken up and maintained in various institutions when, on the face of it, it would seem that some assistance on a modest scale might have kept the family together and saved a considerable amount of public money. There may be a perfectly

good explanation, but until the public learns what that explanation is it will be suggested that the system must be wrong somewhere.

Unwanted Children

The unwanted child is often the illegitimate child, but unfortunately there are many others who are unwanted, and many young people nowadays seem to resent the responsibilites attaching to parenthood. Such parents are undoubtedly a small minority compared with the many affectionate parents, but there is a tendency, even among parents who are fond of their children, to expect too much from public authorities by way of relieving them of some of their duties.

An outstanding case illustrating the wrong attitude was provided when a mother, aged twenty-two, was sent to prison for neglect of her three children, her husband being conditionally discharged for abandoning them.

The evidence showed that the father took the children to the place where his wife was employed and left them in a passage. Later the mother took them to her home and the next day her father took them to a nearby school. It was alleged that the mother had said that she was not going to collect the children from the school. She did not do so, and they were cared for by the N.S.P.C.C.

Perhaps the most distressing feature of the case is the apparent indifference of the mother, who was stated to have said: "I am only twenty-two, have a good job, and am too young to be tied and have the responsibility of bringing up three children. The authorities should have taken over the children and put them in a home. I am willing to pay. I don't mind being sent to prison, it will clear the matter up."

It is probably true that when she married she had no idea of what were the responsibilities of a family and that she married much too young. What matters most now is what happens when she has served her sentence. For the present the children will be well looked after, but children are better off when leading normal family life with parents who care for them than living in the best institutions. If this young mother can be persuaded to change her whole outlook and receive advice and training in the management of a home and children, there will be more real happiness for her and the children than if the present separation becomes permanent.

Trespassing on the Railway

People who use railway tracks as short cuts instead of going round by the road are sometimes aggrieved if they are prosecuted and fined. They claim they have done no harm and they cannot see why it is necessary to prosecute.

One sound reason for keeping people off railway lines is that they often endanger themselves. This is true of adults, but still truer of children, some of whom like to use the railway tracks as a kind of playground.

An eleven year old child, summoned for trespassing on a railway and obstructing an engine, was said to have sat on the railway line and jumped clear when the engine was almost on him and to have told the police he had been dared by three girls to do it. The report states that the boy was fined and placed on probation, presumably on two separate charges.

It is well that such prosecutions should be brought and that such offences should not be treated lightly. It is not a question of punishing wickedness, but of bringing home to children the fact that they must not do such things because of the danger. Such games have been known to cost a child his life, and both children and their parents need to realize this.

After-Care

For many years past there has been a growing realization of the necessity of tackling effectively the problem of after-care. The youth or girl released from a borstal institution and perhaps still more the prisoner just discharged are at a critical point in their lives, a point at which timely help may prevent future tragedy. Devoted work has been done, often with good results, but for a long time the work among ex-prisoners in particular was hampered by lack of funds.

Since the passing of the Criminal Justice Act, 1948, the work of after-care has been in process of co-ordination, and there is reason to hope that marked progress will henceforth be made in this important work. The Report of the council of the Central After-Care Association to the Secretary of State for the Home Department for the years 1949 and 1950 has now been printed. It is not on public sale but the prison commissioners are sending copies to interested bodies and persons, and we have no doubt that anyone who is interested and has not received a copy will be supplied with one on application, or will at least be sent a copy of the useful memorandum from the Home Office, dated December 27, 1951, and numbered five.

Contempt After Eviction

The case of *Alliance Building Society* v. *Austen* [1951] 2 All E.R. 1068 is curious: not in the result, which seems inevitable, but in the fact that the case should have been contested. It possibly would not have been, but that the defendant appeared in person, and does not seem from the report to have had solicitors acting for him. In execution of a writ of possession, the sheriff's officer had evicted the defendant from his flat, and given vacant possession to the plaintiff society. Next day the defendant went back into occupation. The plaintiff society moved to commit him for contempt, but Roxburgh, J., adjourned the application for a week, on the defendant's stating that he had already left the premises, and promising not to return. At the end of the week it was discovered that the defendant had remained in occupation all the time. The only doubt about the matter in the learned judge's mind arose from a passage at p. 844 of the *Annual Practice*, 1950, indicating that a writ of restitution is the proper remedy where a defendant resumes possession of premises from which he has been evicted. This, however, is not exclusive, *i.e.*, there may be other remedies. Another passage in the *Annual Practice*, p. 802, says that recovery of possession by force or fraud, after execution of a writ of possession, is contempt, but only one case is cited for the proposition: *Lacon* v. *De Groat* (1893) 10 T.L.R. 24, which was decided nearly sixty years ago. The explanation probably is that few defendants, once put out by the sheriff, have the effrontery to go back, as did this Mr. Austen. Local authorities are not infrequently troubled, with tenants whom it is difficult to put out and to keep out of their houses; the decision here should be noted, even though Roxburgh, J., said that it was only to be used in exceptional cases.

Boni Judicis Est

The decision of the House of Lords in *Magor and St. Mellons Rural District Council* v. *Newport Corporation* [1951] 2 All E.R. 839 confirmed the decision of the Court of Appeal at [1950] 2 All E.R. 1226, and, so far, does not add to the law as left by

the Court of Appeal. What was said in the House of Lords is therefore chiefly remarkable for the emphatic condemnation of some observations of Denning, L.J., which ran thus: "We sit here to find out the intention of Parliament and of Ministers and carry it out, and we do this better by filling in the gaps and making sense of the enactments than by subjecting it out to destructive analysis." The first part of this passage was called by the Lord Chancellor an echo of *Haydon's* case (1584) 3 C. Rep. 7a, and so far not objectionable. It seems rather startling to find a lord justice speaking of "the intention of Parliament and of Ministers," as if of equal value, but this superficially heretical notion is explained when one sees that an order of a Minister, made under statutory powers, had to be construed. It is the manner in which the lord justice proposed to proceed, towards "finding out the intention," that drew severe strictures from the Lord Chancellor who said: "It is sufficient to say that the general proposition that it is the duty of the court to find out the intention of Parliament—and not only of Parliament but of Ministers also—cannot by any means be supported. The duty of the court is to interpret the words that the legislature has used." The suggestion of the lord justice that, having discovered the intention of Parliament and of Ministers, the court must proceed to fill in the gaps in the expression of that intention, is described by the Lord Chancellor as "restating in a new form" what the same lord justice had said in *Seaford Court Estates, Ltd.* v. *Asher* [1949] 2 All E.R. 155 (and *see* [1950] 1 All E.R. 1018), and to be "naked usurpation of the legislative function under the thin disguise of interpretation." There cannot often have been occasions for the Lord Chancellor of the day to speak so strongly about a judgment delivered in the Court of Appeal but, as will be seen from the next following speech in the House of Lords, by Lord Morton of Henryton, Denning, L.J., had himself more or less invited these strictures, by the vigour with which he had criticized the judgment given in the court of first instance.

Admission of the Press

When Parliament assembles, there will be the usual ballot in the House of Commons for whatever time the Government allows for introducing private members' Bills. Of these, experience suggests that some will be kites, flown to test the breezes of an untried House or to advertise some nostrum which it is known has no chance of adoption. Some will be directed to promoting fads in which the members responsible are personally and genuinely interested; some will seek a real reform or the curing of a genuine evil. There are usually a few members successful in the ballot, who then start looking round for a topic on which to exercise their ingenuity—much as a person, who for the sake of good fellowship has taken part in a lucky dip at Christmas, may look round for a friend on whom to bestow the unexpected prize. To any member, who draws a date and has not decided what epoch-making (or other) legislative effort is to benefit, we commend the Public Bodies (Admission of the Press) Bill, introduced a year ago by Mr. Martin Lindsay, M.P. for Solihull, who is still in the House of Commons, but may be unlucky in the ballot, or may have some other project in mind for the present session. As we said at p. 115 last year, there were details in that Bill about which we were on merits undecided. Looking at it afresh now that twelve months have elapsed, we should advise dropping the reference to hospital boards and hospital committees, which are organs of the central government, not of local government. And we doubt the expediency of admitting press representatives, as of right, to the various "consumers' councils" named in the schedule to Mr. Lindsay's Bill of 1951. These are not executive bodies; if they find and thrash out a grievance against one of the socialized industries they can always make it public, and we think frank and fair discussion of such grievances might be better conducted in the absence of the press. We are concerned with persons who are elected for the purpose of governing the public and are (technically) answerable to their electorate. What is so urgently needed, in that sphere, is to bring the Local Authorities (Admission of the Press to Meetings) Act, 1908, into accord with modern practice: in particular, to ensure that committees, which increasingly exercise powers fully, and quite properly, delegated by local authorities, shall be subject to the same obligation of admitting the press as attaches to the parent body. In this connexion, we may remind readers of an expression of opinion by the then Minister of Health, printed at p. 2087 of the new *Lumley*, just received.

The Rating of Public Parks

We do not know whether the transfer of valuation for rates to the Inland Revenue will affect the outlook of local authorities upon the rating of public parks, pleasure grounds, and recreation grounds. There have been differences of opinion on the merits of this, which we have sometimes suspected could be traced in part to divided interests. The greater number of public parks and pleasure grounds are provided by the councils of boroughs and urban districts; despite their being rating authorities, they have (in our experience) stood with parish councils, who provide recreation grounds and are not rating authorities, in defence of the principle that such grounds are not rateable. Rural district councils, who do not normally provide such grounds and are rating authorities, and county councils who do not normally provide such grounds but are greatly interested in the product of the local rates, have (broadly) inclined to think that the principle established in the *Brockwell Park* case, *Lambeth Overseers* v. *London County Council* (1897) 61 J.P. 580, was dubious (to say the least)—and this even though it was a county council which profited by that decision. We have ourselves long doubted whether the decision in that case by the House of Lords, weighty as was the personnel sitting at the time, is logically sound, and it is not irrelevant to this doubt that Lord Halsbury and Lord Herschell arrived at the conclusion in favour of the county council by different paths. Nowadays there are many more statutory functions of local authorities than there were then, from which no profit can be drawn, and yet the local authority must be considered as a hypothetical tenant prepared to pay a rent for property, for the purpose of carrying out the statutory function; this makes the reasoning beneath the *Brockwell Park* decision look a little thin. The decision, however, cannot now be upset except be legislation and we do not expect to see any Government, or any private member, introducing a Bill to reverse it, though there have been attempts to whittle it away, or escape from its effects, among which attempts *North Riding of Yorkshire County Valuation Committee* v. *Redcar Corporation* [1942] 2 All E.R. 589; 106 J.P. 11, deserves special mention. There the attempt succeeded; incidentally, the case is a pretty example of the conflict of interest of which we spoke above, inasmuch as the rating authority had a split personality, and the county valuation committee was on the opposite side from that occupied by the county council in the *Brockwell Park* case. The latest of these attempts seems to be *Burnell* v. *Downham Market Urban District Council*, which so far we have not noticed except in the *Law Journal* newspaper for November 23, 1951, 101 L.J.N. 654. This was a decision of the Central Lands Tribunal, which may or may not be reported in due course, seeing that it was apparently a decision by a single member. The *Brockwell Park* case and many others were cited and considered, and the tribunal came down in favour of the view that the park or recreation ground in question had been "struck with

sterility " ; and that the council were not in beneficial occupation. In so holding, the tribunal upheld a decision of the local valuation court.

The land had been acquired by the urban district council of Downham Market at the end of the recent war, as a war memorial. By clause 3 of the conveyance the council declared that they would " hold the premises hereby conveyed upon the trusts following, that is to say upon trust for the perpetual use thereof by the public for the purposes of exercise and recreation, pursuant to the provisions of the Open Spaces Act, 1906." The land was used for playing fields for cricket, football, and tennis, a putting green, and a children's playground ; there was a garden of remembrance adjoining the playing fields in a separate enclosure. Football and cricket were arranged under an agreement with the federation of Downham Market football and cricket clubs, under which the federation paid a rent of £85 *per annum* and were entitled to close the entrance, for the purpose of making a charge for admission, on the days of their fixtures. The expense of keeping up the ground, including a groundsman's wages, exceeded the rent received by the council, the excess being paid out of the rates. The tribunal commented that the facts of the case placed it somewhere between such cases as the *Brockwell Park* case (and others in which an authority acquired land under a statutory duty and was held not to be in beneficial occupation) on the one hand, and those on the other hand where the hereditaments were occupied under the provisions of a private trust, and the trustees were held to be in beneficial occupation. In the case before the tribunal the council did not occupy the land under statutory authority, nor was it held under a private trust erected by private individuals for some public purpose. The money for the scheme was raised from the public at large. The tribunal considered the essential point to be that, in accepting the land as an open space, the council declared that they would hold it for the perpetual use of the public ; it was intended to sterilize the land for any purpose other than use as an open space for the use of the people of Downham Market. The tribunal therefore held that the council were not in beneficial occupation of the premises and that the land was not liable for any rate. In commenting on this decision, the learned editor of our contemporary remarks that it is " an extension of a doctrine the precise nature and scope of which is far from clear." We respectfully agree.

BEYOND CONTROL

[CONTRIBUTED]

This article is concerned not, as might be guessed from its title, with the black market or with the removal of rationing restrictions, but with s. 64 of the Children and Young Persons Act, 1933.

At 112 J.P.N. 446, the provisions of s. 64 were discussed and certain opinions were expressed. In this article the writer seeks to show that there is room for a difference of opinion, and that some of the views in the earlier article are open to serious question.

The section is intended to deal with refractory children and young persons and as, for our purpose, its exact wording is important we reproduce it here :

" Where the parent or guardian of a child or young person proves to a juvenile court that he is unable to control the child or young person, the court, if satisfied,

(*a*) that it is expedient so to deal with the child or young person ; and

(*b*) that the parent or guardian understands the results which will follow from and consents to the making of the order,

may order the child or young person to be sent to an approved school, or may order him to be placed for a specified period, not exceeding three years, under the supervision of a probation officer . . . or (without making any other order or in addition to making such an order as is last mentioned) may commit him to the care of any fit person . . . "

The parts of the section which we have omitted are not relevant to an argument. We note first the words " *the* parent or guardian " " parent " is not defined in the Act, but " guardian " (*see* s. 107) in relation to a child or young person, includes any person who, in the opinion of the court dealing with the case, has for the time being the charge of or control over the child or young person. By the Interpretation Act, 1889, s. 1 (1) (*b*) in every Act passed after 1850, unless the contrary intention appears, words in the singular shall include the plural and words in the plural shall include the singular.

The situation we want to deal with is that which arises when, say, the mother of a child or young person brings him before a court under s. 64, and the father is alive but is not before the court. It is submitted that the court should not act under s. 64 without making every effort [including, if necessary, a warrant under s. 34 (3) and r. 30 of the Summary Jurisdiction (Children and Young Persons) Rules 1933] to get the father before the court or to get reliable evidence of his knowledge of and consent to the proceedings. Furthermore, even if the court is satisfied that the father is not living with the mother, and is not making any effort to control the child, he can it would seem refuse to consent to the making of any order under s. 64 and can so deprive the court of jurisdiction to make such an order.

Consider first the effect of s. 1 of the Interpretation Act, 1889, referred to above. Had the legislature intended to enable one parent to apply without regard to the other the simple way to effect this would, it is suggested, have been to enact that where *a* parent or guardian . . . proves to a juvenile court, . . . and so on. It is clear from the definition of " guardian " that there may well be more than one guardian concerned as having for the time being the charge of or control over a child or young person and this strengthens the view that there does not appear, in s. 64, any contrary intention to override the general rule that the singular is to include the plural. If this is right then, in the case of a child with two parents living, s. 64 must be read, throughout, as though " the parents " and not " the parent " were printed in the section and that in that event the proposition put forward must be accepted as a sound one.

It is appreciated that this may prove inconvenient in practice in some cases, and it may be argued that so to read s. 64 is to fail to give effect to s. 44 (1) as to the requirement to have regard to the welfare of the child or young person. The answer to that is that the consideration introduced by s. 44 (1) cannot arise until the court is in a position to " deal with the child or young person " and that it is not in that position until the requirements of s. 64 have been satisfied to give it the requisite jurisdiction. It may be conceded that it is unfortunate, perhaps, if a recalcitrant father, in order to be awkward or possibly in order to try to avoid a contribution order, prevents an order being made when, if the court had the necessary jurisdiction, it would be in the interest of the child that the order should be made.

Although, however, such action by the father may put an end to proceedings under s. 64 it will often be possible to rely instead upon s. 62, and for the child in question to be brought before the court as being in need of care or protection. In such proceedings the consent of the parent is not required if the court find that the child is so in need. The definition in s. 61 on which reliance would have to be placed is in s. 61 (1) (*a*) as follows: "a child or young person who, having no parent or guardian or a parent or guardian unfit to exercise care and guardianship *or not exercising proper care and guardianship* is either falling into bad associations, or exposed to moral danger, *or beyond control*."

Probably not all cases which, but for the difficulties pointed out, would fit s. 64 could be brought within s. 62, but it must be remembered that s. 64 is designed specifically to enable the parents to initiate proceedings. Where there are differences between the parents it cannot be right that it should be possible for one parent to score off the other by resorting to s. 64 proceedings and it is certainly not inconceivable that parents would never seek to do this. There does not appear to be any convenient half-way house so that in what the court considers to be a suitable case "the parent" must be read in the singular whilst admitting that in others the plural must be intended. It is submitted that either the contrary intention referred to in s. 1 of the Interpretation Act, 1889, appears in all cases under s. 64 where there are two parents or it appears in none. Moreover, it will probably be generally admitted that proceedings under s. 64 are not appropriate ones in which a court should decide between the relative claims of two parents one genuinely wishing to take proceedings under s. 64, and the other equally genuinely opposing them. Possibly if s. 64 said "a parent" a juvenile court might undertake this very difficult task, but how are they to decide that "the parent" means the father rather than the mother or *vice versa*.

This matter is one of some importance, and the article has been somewhat elaborated in the hope of meeting objections that might be made against the proposition put forward. It cannot be sufficient to acknowledge the correctness of this proposition in theory, and to avoid its difficulties in practice by allowing a mother who brings a child before the court to say that father knows all about it and agrees. It is for the court to satisfy itself at first hand that the *parents* understand the results which will follow and that they consent to the making of the order. How otherwise do they answer satisfactorily a father who comes to protest that his first real knowledge of the results which follow the making of the order is a summons calling upon him to show cause why a contribution order should not be made against him under s. 87 of the 1933 Act.

JUVENILES AND MENS REA

By ALAN GARFITT, LL.B., *Barrister-at-Law*

That every man is presumed to intend the natural and probable consequences of his actions and to know the law are presumptions which, in the majority of cases, enable the prosecution to establish *mens rea* against defendants over fourteen years of age. In the case of children under fourteen, however, this is not sufficient. The rebuttable presumption against *mens rea* in children has long been part of English law. In their note to s. 50 of Children and Young Persons Act, 1933, which deals with children under eight the learned editors of *Clarke Hall and Morrison on Children* comment that the presumption in favour of a child must be borne in mind when a charge is preferred which involves guilty knowledge and it is not obvious that such guilty knowledge must have existed. The writer here submits that the existence of this presumption should make courts reluctant to accept pleas of guilty from children, and the prosecution should be made to realize that they must go further than merely prove the doing of an act which is, *prima facie*, criminal. They must show in addition that the accused was, at the time of the commission of the act, possessed of that mental outlook and power which is aptly described as "mischievous discretion."

The cases give but little authority on mischievous discretion. It was considered in relation to children in *R.* v. *Waite* [1892] 2 Q.B. 600, when it was held that a boy under fourteen could be found guilty of a common assault on a girl of eight. In the next year, it was held in *R.* v. *Williams* [1893] 1 Q.B. 320, that a boy under fourteen could be found guilty of an indecent assault, as an alternative to a charge of rape, even though the law deems such a boy to be incapable of performing the latter act.

The method by which the guilt or otherwise of a child under fourteen may be tested is contained in the judge's direction to the jury in *R.* v. *Gorrie* (1919) 83 J.P. 136, where the charge was one of manslaughter. The judge told the jury to consider first whether they could bring in a verdict if the accused was over fourteen; then consider whether the accused had that mischievous discretion which would deprive him of the shelter which he would otherwise have, that is: "Did the accused know that what he was doing was seriously or gravely wrong?"

The issue was aptly explained at 47 S.J. 123 in a comment on *R.* v. *Lockley*, tried at Stafford Assizes in 1902 (in which a boy was charged with the manslaughter of a girl who had died through his deliberately setting fire to her dress), by saying that "the prosecution must show that the accused not only realized the consequences but was influenced by some motive, *e.g.*, violent animosity, revenge, gain . . ." Other possible motives are, of course, satisfaction of desire, hurt or insult. The writer at 47 S.J. 123 instanced a case tried at Liverpool Assizes ten years earlier in which two children were convicted of manslaughter by inveigling a well dressed boy to a lonely place, stripping him of his clothes and pushing him into a pond, and said: "In that case every element of malice was there already shown, deliberate planning, coveting of good clothes and desire to conceal the evil deed, and the children were properly convicted. If, however (in *R.* v. *Lockley*) the evidence showed nothing more than childish mischief and a boyish delight in frightening little girls, then that necessary element of malice was not present and the boy should be acquitted." The boy was acquitted. It would be difficult to find any clearer direction on the method of dealing with the issue of *mens rea* in children when one has to bear in mind *R.* v. *Kershaw* (1902) 18 T.L.R. 357 in which it was held that the fact that a child did acts constituting the elements of the offence is not in itself any evidence whatever of the guilty state of mind which is essential for conviction.

Finally, some words of comfort to prosecutors are contained in the note first mentioned above—"The presumption is rebuttable, however, by strong evidence of a mischievous discretion. In practice, it will be found that the child of average intelligence shows a capacity for knowing good from evil."

LOCAL AUTHORITIES: AUTHORITY TO INSTITUTE PROCEEDINGS AND TO APPEAR

[CONTRIBUTED]

A. BOB KEATS, LTD. *v.* FARRANT

A recent case, *Bob Keats, Ltd.* v. *Farrant* [1951] 1 All E.R. 899; 115 J.P. 304, which was noted also at 115 J.P.N. 247, decided that a local authority who had resolved that proceedings be instituted without detailing any officer for the task, and without authorizing their clerk to appear (he was not a solicitor) lost the case on the ground that the regulation authorizing that sort of action (Lord Goddard said)—"Contemplates that there will be a formal appointment made by resolution under s. 277 of the Local Government Act, 1933." That resolution could have been either a general or special one. There was neither. Because of the phrasing of the judgment just quoted, it has been suggested that the decision applies only to prosecutions under this particular regulation, the Control of Building Operations (Proceedings by Local Authorities) No. 1 Order, 1947 (S.R. & O. 1947 No. 75). It is important to consider whether this is so.

The Order reads: "... county districts ..., acting by any officer appointed by them either generally or specifically for this purpose are hereby specified as authorities who may institute proceedings for an offence against" Defence Regulation 56A. Compare this with s. 277 of the Local Government Act, 1933: "A local authority may by resolution authorize any ... officer of the authority either generally or in respect of any particular matter to institute ..." The similarity of language will be remarked.

As s. 277 is of general application and S.R. & O. 75 of 1947 imposes no extra formalities, it is arguable that the Lord Chief Justice spoke in the following sense: "It contemplates that though there need be no more than the resolution under s. 277, there must be at least that formality." The development of this argument is that the decision in the case would have been the same whether the order had referred to such an appointment or not, such reference being *ex abundanti cautela*, and therefore is of general application and not restricted to prosecutions under Defence Regulation 56A.

B. THE GENERAL LAW

Section 277 above referred to reads: "A local authority may by resolution authorize any member or officer of the authority, either generally or in respect of any particular matter, to institute or defend on their behalf proceedings before any court of summary jurisdiction or to appear on their behalf before a court of summary jurisdiction in any proceedings instituted by them or on their behalf or against them, and any member or officer so authorized shall be entitled to institute or defend any such proceedings and, notwithstanding anything contained in the Solicitors Act, 1932, to conduct any such proceedings although he is not a certificated solicitor."

1. *Authority to Institute Proceedings*

Under the previous law the clerk differed from other officers in that he could take proceedings without authority. The inference is that now he cannot.

By "the institution of proceedings" is meant the laying of an information. This section does not purport to enable a local authority to give their officer the power to choose which matters should be prosecuted. For one thing a local authority must make individual decision—there never can be a "wholesale" decision to commence proceedings: *see Re Paddington and St. Marylebone Rent Tribunal, Ex parte Bell London and Provincial Properties, Ltd.* [1949] 1 All E.R. 720, and the *Shoreham Houseboats'* case referred to in Mr. Megarry's article in the September *Journal of Planning Law*. If, however, the authority make use of the power under s. 277 to give an officer a general authority to institute proceedings, once they have decided that in such and such a case they must take proceedings, that officer can put their wishes into effect without his being specifically named as the officer to do so.

It may be useful to note another aspect of the principle that there must be a valid decision to prosecute in the particular case, as well as a general authority for the clerk to institute proceedings. It is to be found in the Notes of the Week at 115 J.P.N. 479 referring to what, for convenience, may be called the *Wolverhampton* case. The aspect I refer to is the suggestion that the committee authorizing the proceedings was itself without such authority, and the natural consequence that the town clerk lacked it too. It may be observed, also, that the town clerk would have still been without authority for any matter delegated to a committee after the date of his general resolution under s. 277, as that merely granted him authority for matters "which have been" delegated to committees. "Shall have been" might have led to a different result.

Lumley quotes *Bowyer, Philpott and Payne Ltd.* v. *Mather* (1919) 83 J.P. 50, as authority for saying that an institution of proceedings without authority cannot be subsequently ratified (though the unauthorized lodging of a notice of appeal can be), but it may be worth examining whether this decision is still good law, in view of the decision in *Danish Mercantile Co., Ltd. and Others* v. *Beaumont and Another* [1951] 1 All E.R. 925. In that case the Court of Appeal held that, where an action had been started in the name of a company without its authority, and later the purported plaintiff ratified the act of the solicitor, it was no longer open to the defendant to object, on the ground that the proceedings thus ratified and adopted were in the first instance brought without proper authority. It does not appear that the attention of the court was drawn to the 1919 case, although older authorities were referred to. For this there was, I suggest, good reason: the company case turned upon the ordinary law of agency and ratification; the local authority case upon a specific statutory requirement, so that the experienced counsel appearing in the company case would not regard the local authority case as a precedent.

It should be noticed that proceedings are, by the section of the Local Government Act, to be instituted by or on behalf of the authority, and this wording should be followed both in the resolution giving authority and the information or complaint by which the proceedings are instituted. (*See* again the *Wolverhampton* case.)

The officer, when appearing in court, would be best protected if equipped with a certified copy of the resolution (*a*) authorizing him to institute proceedings, (*b*) deciding that proceedings should be instituted in the particular case, and (*c*) (if his position but not his name is mentioned in such resolutions) appointing him to his post on the council's staff. Strictly speaking, except, *e.g.*, in a Public Health Act matter, the signed and sealed minute book is

necessary, but if the copy resolution is challenged the court would probably be reasonable and permit an adjournment to get it.

2. *Authority to appear in court*

Again the authority can be general or specific, and it should be noted that the authority to appear would enable the clerk, for instance, to appear in proceedings instituted by a sanitary inspector.

It might be thought that a solicitor properly appointed, either by retainer or to the staff of the authority, had a right to appear as such without a resolution under s. 277. This belief is somewhat encouraged by the references to the Solicitors Act in the section, but such an inference is not conclusive. To say specifically that anyone, including someone who is not a solicitor, may do a thing if he is specifically authorized does not necessarily mean that a solicitor may do it without specific authority.

The point was not brought up in *Bob Keats, Ltd.* v. *Farrant* and there is nothing to show whether or not the solicitors acting for the authority were authorized to appear, either specifically or generally. At 115 J.P.N. 608, the opinion is expressed that (so far as concerns the provisions here in question) a solicitor's right to appear is not, by reason of his being a solicitor, greater than that of any other officer of an authority. I had thought the contrary view arguable, but I understand the governing consideration to be, in the editor's opinion, that—whereas the Solicitors Acts are aimed at protecting clients from unlearned advisers: *Beeston and Stapleford U.D.C.* v. *Smith* [1949] 1 All E.R. 394; 113 J.P. 160, as explained at 113 J.P.N. 229—the Local Government Act, 1933, and its predecessors have been aimed at ensuring proper attention from the authority which has to pay the costs: *Bowyer, Philpott and Payne Ltd.* v. *Mather*, *supra*.

A further point to be considered is whether an authority given to a chief officer by his title is sufficient to enable a member of his staff to act. For instance, if the chief sanitary inspector only is authorized to institute proceedings, may a sanitary inspector in his department lay an information in his own name? I should say definitely not. If the town clerk instructs an assistant solicitor to lay an information, and the resolution under s. 277 mentioned only the town clerk, does the solicitor do it in his own name or the clerk's? Again, obviously, in the clerk's name. If the clerk only is authorized to appear may he send his deputy to court, or should the deputy clerk be specifically authorized?

It is thought that the information must be laid in the name of whoever is going to give the evidence, who must therefore be personally authorized by resolution under s. 277. It is suggested, that the resolution need not name him; the title of his position on the council's staff would be sufficient. But it should be noted that under s. 10 of the Summary Jurisdiction Act, 1848, an information may be laid by a solicitor on behalf of the informant, *e.g.*, the assistant sanitary inspector.

No doubt, too, a solicitor on the clerk's staff may appear in court, acting as it were in the clerk's name, even though the resolution under s. 277 authorized only the clerk to appear in proceedings, but it is suggested that a lay member of any department, *e.g.*, the housing manager's must be authorized personally under s. 277 and not merely purport to represent the authorized head of the department.

It is therefore safest, and it certainly costs nothing, to have resolutions under s. 277 authorizing the institution of proceedings by all individuals, whether chief officers or not, in whose names informations are likely to be laid, and resolutions authorizing the appearance in court of all qualified solicitors, including of course the clerk himself, and of any unqualified officials whose special duties require it (if any). Against this, certain chief officers may feel that it is derogatory to them to have junior members of their department specifically authorized to do personally work for which the chief officer is responsible; and the council, being asked to approve the lengthy and finicky resolution necessary, may wax sarcastic and say: "We appointed the town clerk to see that all this was done, what more does anyone want?" And, indeed, there is some force in that argument, if it is turned round into more serious language. If the clerk's appointment specifies his duties, and lists among them "representing the council at any proceedings authorized by them to be taken," that can be claimed as a resolution under s. 277. If it does not (and the joint negotiating committee's conditions do not) it can only be argued that the duty is one that custom has placed on the clerk, and that the authority is impliedly there.

However, as has been said, it costs nothing to make sure and I therefore append draft resolutions which, with slight modifications, can be made to give as much cover as the reader, having considered the matter and made up his own mind, desires to obtain from his particular council.

MODEL RESOLUTIONS

1. "RESOLVED (1) that the following officers be (and they are hereby) authorized to institute or defend on behalf of the council any proceedings [in connexion with the functions of the council shown against their respective names] which the council by itself or by a duly empowered committee may decide to take or defend.

[The Clerk of the council (the deputy clerk and any assistant solicitor): any of the council's functions; The surveyor: the council's functions under (*a*) the Public Health Acts; (*b*) the Highways Acts; (*c*) the Factories Acts; (*d*) matters arising under Local Acts and byelaws. The medical officer of health: The council's functions under (*a*) the Public Health Acts; (*b*) the National Assistance Acts; (*c*) matters arising under local Acts and byelaws. The chief and any sanitary inspector: The council's functions under (*a*) the Public Health Acts; (*b*) the Shops Act; (*c*) the Factories Acts; (*d*) the Food and Drugs Acts; (*e*) the Housing Acts; (*f*) matters arising under local Acts and byelaws. The parks superintendent: Matters arising under local Acts and byelaws.

(2). That in interpreting the above the word "Acts" shall be deemed to include all regulations and byelaws made dealing with similar matters.

(3). That all the above-named officers shall be and are hereby authorized to institute or defend proceedings which the council or a duly empowered committee decide to take to protect council property."]

2. "RESOLVED that the clerk of the council (and members of the council's legal staff) be (and he is (they are) hereby) authorized to appear on behalf of the council in any court or tribunal before which he has (they have) a right of audience in any proceedings instituted by the council or on their behalf or against them."

3. To be used complementary to a resolution similar to 2. It can be used whether or not they have passed a resolution similar to 1.

"RESOLVED that the medical officer of health institute proceedings on behalf of the council under s. 47 of the National Assistance Act, 1948, to secure the removal to a suitable hospital or other place of the aged person at No. 100, Blank Street, who suffering from a grave chronic disease is living in insanitary

conditions and is unable to devote to himself and is not receiving from other persons proper care and attention."

NOTE. If the council had passed a resolution similar to number 1 above, this last resolution could read " RESOLVED that the authorized officer institute proceedings, etc.," but there seems little to be gained by this. The moral presumably is : " Do not trouble your council to pass a resolution in the form of No. 1."

4. If the council have not passed a resolution similar to 2, then each time a resolution is passed in form 3 the following or something similar must be added :

" RESOLVED (i) . . . as for 3 . . .

" (ii) that the clerk of the council (' the housing manager ')* (or a member of his staff at his discretion) be (and he is hereby) authorized to appear on behalf of the council before the court in these proceedings."

In short, before instituting proceedings, ensure that there are resolutions in the books in form similar to 1 or 3 and 2 or 4.

" ESSEX "

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* *e.g.*, in cases under the Small Tenements Recovery Act.

WEEKLY NOTES OF CASES

COURT OF APPEAL

(Before Sir Raymond Evershed, M.R., Birkett and Romer, L.JJ.)

DAVIS COHEN & SONS, LTD. *v.* HALL (VALUATION OFFICER)

December 18, 19, 1951

Rates—De-rating—Industrial hereditament—Adapting for sale—Primary use for distributive wholesale business—Sorting of government surplus stores—Factory and Workshop Act, 1901 (1 *Edw.* 7, *c.* 22), *s.* 149 (1) (*c*) (iii)—*Rating and Valuation (Apportionment) Act*, 1928 (18 *and* 19 *Geo.* 5, *c.* 44), s. 3 (1).

CASE STATED by the Lands Tribunal.

The ratepayers, who were wholesale dealers, bought 25,000 cases of government surplus stores, and conveyed them to premises where the cases were opened and their contents identified, sorted, graded and to a minor extent assembled. The ratepayers contended that the premises were occupied and used by them as an industrial hereditament within the meaning of the Rating and Valuation (Apportionment) Act, 1928, s. 3 (1). The Lands Tribunal held that the premises were used primarily for a distributive wholesale business, and were, therefore, not an industrial hereditament, without deciding whether the activities carried on by the ratepayers amounted to an adapting for sale. On appeal,

Held : (i) the definition of an industrial hereditament in s. 3 (1) of the Rating and Valuation (Apportionment) Act, 1928, was a composite one, and it was, therefore, open to the tribunal to say that, although the activities carried on might be an adapting for sale in some contexts, nevertheless operations conducted by a particular firm or company, having regard to the character of its particular business, were really no more than a stage in their wholesale distributive business.

(ii) in the present case one started, not with an amorphous mass of goods, but with an unarranged and unidentified aggregation of individual articles, which were identified and suitably arranged ; it was impossible to say that such a dealing with the goods so that they might be more suitably sold, involving, as it did, no alteration of the character of the goods, amounted to an adapting for sale ; and, therefore, the premises did not constitute an industrial hereditament.

Counsel : *Sir Arthur Comyns Carr, K.C.*, and *C. N. Glidewell*, for the ratepayers ; *Geoffrey Lawrence, K.C.*, and *S. K. de Ferrars* (*Maurice Lyell* with them), for the valuation officer.

Solicitors : *Kingsford, Dorman & Co.* for *Shasha & Hamwee*, Manchester, for ratepayers ; *Solicitor, Inland Revenue*, for valuation officer.

(Reported by F. Guttman, Esq., Barrister-at-Law.)

LAW AND PENALTIES IN MAGISTERIAL AND OTHER COURTS

No. 7

A LICENSEE'S SUCCESSFUL APPEAL AGAINST A CONVICTION FOR DRUNKENNESS

A Darwen licensee appeared before the Preston Quarter Sessions Appeals Committee last month, to appeal against a conviction by the Darwen magistrates on a charge of being drunk on his own licensed premises. The charge had been laid under s. 12 of the Licensing Act, 1872, and the appellant had pleaded not guilty, but had been found guilty and fined the maximum of 10s.

Counsel for the police stated that the facts were that at 2.45 *a.m.* on a date in September last, a police constable on patrol duty noticed that the front door of the licensee's premises was open, and that the lights were on, including an outside neon sign. He entered the premises and saw the licensee at the bar with another man, and in front of them were glasses containing spirits. The constable went away and returned an hour later, when the lights were still on, and he heard the licensee singing. The door was still open and when he entered he noticed that the two glasses were empty. He spoke to the licensee who staggered and had a vacant look on his face. The licensee's speech was slurred and indistinct.

The police constable in evidence stated that when he returned to the house at 3.45 *a.m.*, the licensee was standing against the door with his arm around the other man. He swayed on his feet and held on to the bar for support, and did not seem to appreciate the time. Witness told him he was drunk and the licensee replied " O.K." Told he would be reported, he said, " All right, please yourself."

In cross-examination, witness admitted that the hotel was a residential hotel, but stated that he did not know that there were fifteen residents at the time.

The appellant in evidence stated that he had been licensee at the premises for three years and licensee of another hotel previously for eight years without complaint. On the night in question he closed at 10 *p.m.* Owing to the volume of smoke it was his practice to open all the doors to let the smoke out. He had fifteen guests in the hotel but only six keys of the front door. He never drank with anyone in his own house, but on the night in question he was not feeling well and he had three small brandies which he looked upon as medicine. He had left the front door half open for a guest who had not returned so as to save him (the appellant) from having to go to the door when the guest returned as he was tired after working for seventeen hours that day. His wife was away at the time and he had a lot to do. He admitted trying to sing but stated he only knew two lines of the song, and it was because the other man in the bar was about to leave that he put his arm round his shoulder and tried to sing the refrain. He was shocked when the constable told him he would " book " him for incapacity. The constable never mentioned drink. The friend who was in the bar with the appellant at the time stated that he drank a sherry at the lincensee's invitation. The licensee was definitely not drunk.

Mr. J. di V. Nahum, who appeared for the appellant, submitted that there were discrepancies in the constable's evidence and that on the evidence as a whole there should have been no conviction. He urged that it was quite wrong for a conviction to be recorded on the uncorroborated evidence of one witness.

Mr. Nahum submitted that the cases of *Lester* v. *Torrens* (1877) 41 J.P. 821, and *Young* v. *Gentle* (1915) 79 J.P. 347, established clearly the principle that neither a lodger nor a licensee can be guilty of an offence against s. 12 of the Licensing Act, 1872, after permitted hours, not because the premises cease to be licensed premises after permitted hours (which was the erroneous reasoning in *Lester* v. *Torrens*, *supra*), but because the licensee or lodger is on the premises in the capacity of a resident in a private house.

Mr. Nahum next sought to distinguish the apppellant's case from the decision in *Lewis* v. *Dodd* (1919) 83 J.P. 25, and *Evans* v. *Fletcher* (1926) 90 J.P. 157, and he reminded the Appeals Committee that those cases dealt with the position which arises where a licensee or lodger is found drunk upon licensed premises after the termination of permitted hours for the sale and consumption of intoxicating liquor,

but whilst the premises are still open for other purposes. He pointed out that in *Lewis* v. *Dodd, supra*, where a conviction under s. 12 was upheld by the Divisional Court, Darling, J., indicated clearly that his decision was influenced by the fact that there was at the material time an invitation to the public to enter and buy refreshment other than alcoholic refreshment. Mr. Nahum submitted that although Avory, J., in *Evans* v. *Fletcher, supra*, had said, "In my opinion, if in fact licensed premises are open so that the public have access to them and the licensee is found drunk on them, then the privilege which is said to attach to a person getting drunk in his own house cannot be claimed by the licensee," nevertheless it had to be remembered that the learned judge was following *Lewis* v. *Dodd, supra*, and Mr. Nahum submitted that not for one moment could it be held that mere physical access was the criterion to be applied.

He stressed the fact that the time at which the present offence was alleged to have been committed was 3.45 *a.m.*, and that there could be no question of an invitation to the public to buy anything at that time.

Counsel for the police submitted that upon the evidence of the police constable as to the doors of the premises being open and the fact that the lights were on, it must be inferred that there was an invitation to the public to enter, and that in these circumstances and on the authorities the conviction should be upheld.

The learned chairman, Mr. A. E. Jalland, K.C., stated that the Committee had come to the conclusion that there was doubt about the licensee being drunk as he had a cold at the time. On the other point as to the premises being ablaze with light and the doors open, the Committee remembered that the licensee had said that if anyone had asked to be served at that time such a person would have been refused, and the Committee accepted that because there was no barman on duty.

The Committee were in doubt as to whether the house was open, and in the circumstances they allowed the appeal.

COMMENT

Section 12 of the Act of 1872 has been considered by the Divisional Court upon a number of occasions, but it must be remembered that the law relating to public houses was radically altered in 1921 when "closing" hours were abolished and "permitted" hours were substituted therefor.

It is not easy to reconcile all the authorities but it would seem, with all due respect to the Darwen magistrates, that the decision of the Appeals Committee in allowing the licensee's appeal was correct, for it is difficult to conceive that the licensee would have been willing to serve a member of the public at 3.45 *a.m.* with refreshment other than intoxicating liquor, had a member of the public, attracted by the bright lights of the appellant's premises, thought fit to enter by one of the open doors.

It would appear that the true position under s. 12 is accurately set out in *Paterson's Licensing Acts*, 59th edn., at p. 333, where it is stated "Neither a license holder, nor a lodger, nor an inmate of licensed premises will be liable to be convicted if he is found drunk on premises at any time during which the premises are for the time being closed to the general public. In any other case where a person is found drunk on licensed premises, whether it be a public or private part of the premises, he will be liable to be convicted."

(The writer is much indebted to Mr. J. di V. Nahum, for information in regard to this case.)

R.L.H.

PENALTIES

Much Wenlock—December, 1951—supplying coal in excess of permitted quantities to four customers—fined a total of £60. The amount of excess coal delivered was 8½ tons.

Bristol—December, 1951—stealing twenty-eight books from the city's public libraries—fined £15. Defendant, who until recently was carrying on a practice as a psychoanalyst, stole books dealing with psychology and Swedish manipulation.

Cardiff—December, 1951—driving while under the influence of drink—one month's imprisonment. Disqualified from driving cars for two years. Defendant, a lorry driver, committed the offence when driving a car. He was not disqualified from driving lorries.

Enfield—December, 1951—driving while under the influence of drink—four months' imprisonment. Disqualified from driving for ten years. Defendant, a thirty-one year old electrician, drove his car with the near-side wheels on the pavement for twenty yards and then knocked down a cyclist.

Wolverhampton—December, 1951—(1) driving while under the influence of drink—(2) taking a car away without the owner's consent—(3) no third party insurance—(4) driving while disqualified—six months' imprisonment. Disqualified from driving for three years. Defendant, aged twenty-two, had twenty-eight previous convictions and had been disqualified from driving three times.

Coventry—December, 1951—in charge of a car while under the influence of drink—one month's imprisonment. Disqualified from driving for two years. Defendant an optician aged forty-three.

Sheffield—December, 1951—(1) driving while under the influence of drink, (2) no insurance—(1) two months' imprisonment, (2) fined £5. Disqualified from driving for two years. To pay £16 costs.

Birmingham Assizes—December, 1951—dangerous driving—twelve months' imprisonment. Disqualified from driving for five years. Defendant was driving a car which collided with a lorry—three of the passengers in the car were killed. The judge stated he was satisfied that the defendant, although not under the influence of drink, had become reckless because of the drink he had taken.

Leeds Assizes—December, 1951—stealing £4,000 worth of cloth—ten year's preventive detention. Defendant, a forty-six year old dealer, had convictions dating back to 1916 which included terms of penal servitude of five, four and three years.

Leeds Assizes—December, 1951—fraudulent conversion of money—six charges—two years' imprisonment each charge (concurrent). Defendant, a former matron of a girls' hostel for mental defectives, misappropriated £18 belonging to the defectives which had been entrusted to her. Total deficiency was stated to have been £851.

REVIEWS

Clarke Hall and Morrison on Children. Fourth Edition. By A. C. L. Morrison and L. G. Banwell. London: Butterworth & Co. (Publishers) Ltd. Price 75s. net.

The third edition of what may now be called this standard work was published in 1947, and a supplement was published in 1949. The coming into force of the Children Act, 1948, and the Nurseries and Child-Minders Regulation Act, 1948, necessitated the publication of a companion book dealing specifically with these two important statutes, and in this there was necessarily reference to, and repetition of, some matters dealt with in the main work. A fourth edition of the latter, incorporating all the relevant matters, is therefore amply justified, and the resulting convenience and ease of reference will be much appreciated by all concerned.

The new edition follows in the main the plan familiar to users of the earlier editions, but there is some necessary re-arrangement. The authors claim that it deals with the law as on August 31, 1951, and its publication now is, therefore, quite an achievement in these difficult days. The Maintenance Orders Act, 1950, is dealt with as necessary and the Guardianship and Maintenance of Infants Act, 1951, is included in an appendix, it having come into operation too late to be incorporated in the main text. Necessary cross-references have, however, been included.

There are now seven divisions of the book dealing with (1) the general law on children and young persons as contained in the Acts of 1933 and 1938, with relevant provisions from other statutes; (2) child care (this division incorporates those provisions previously dealt with in the companion volume); (3) child life protection; (4) adoption; (5) guardianship and marriage of infants; (6) legitimacy and (7) family allowances. This last division includes the Family Allowances Act, 1945, in full, together with the relevant regulations.

It will be seen, therefore, that the scope of this book is such that no one can afford to be without it, in spite of its cost, if his work is at all intimately connected with any of the many aspects of the law touching upon children and their welfare. The care which we have come to expect of the authors seems to have been given to detail. So far we have noticed only one omission, if it can be so-called. In the division on legitimacy two sections from the Matrimonial Causes Act, 1950, are given, but s. 32 is not. In adoption cases it is often necessary to inquire whether a husband is or is not the father of a child born to his wife in order to decide whether or not he is a person whose consent must be obtained or dispensed with. In making such inquiry the fact that the husband and wife may now give evidence as to their marital intercourse is relevant, and a reference to s. 32 would have been helpful. However, the authors obviously could not include everything that might possibly be helpful, and they may well have thought that this was a matter for a book on evidence, and that space forbade its inclusion in their work.

The real test of such a book as this comes only with use. We see no reason to suppose that the new *Clarke Hall and Morrison* will not be as valuable and indispensable as its predecessors.

NOTICES

A lecture on Parliamentary Government in the Dominions, will be delivered on Monday, February 25, 1952, at 5 *p.m.*, by the Rt. Hon. Lord Campion, G.C.B. (with Professor E. C. S. Wade, M.A., LL.D., in the chair) at University College (Eugenics Theatre), Gower Street, W.C.1. Admission free, without ticket.

Professor Rene David, Faculté de Druit de Paris, will deliver a lecture on comparative French and English Law, at King's College, Strand, W.C.2, at 5.30 *p.m.* on Wednesday, February 27, 1952. Admission free, without ticket.

Professor H. G. Hanbury, D.C.L., M.A., Fellow of All Souls and Vinerian Professor of English Law in the University of Oxford, will deliver a lecture on "Equality and Privilege in the Law" at King's College, Strand, W.C.2, at 5.30 *p.m.* on Thursday, March 6, 1952.

TEST

He can lay claim to be truly fair
Who appreciates views that he doesn't share.

J.P.C.

PERSONALIA

APPOINTMENTS

Mr. Gordon C. Middleton of the town clerk's department, Lancaster, has been appointed assistant solicitor to the county borough of Darlington.

Mr. R. M. March, assistant officer of primary education under the London County Council, has been appointed deputy education officer for Birmingham. He succeeds Mr. W. F. Houghton, who has been appointed deputy education officer for the London County Council.

Mr. Alexander Brimelow of Doncaster has been appointed honorary secretary of the National Association of Justices' Clerks' Assistants.

OBITUARY

Alderman C. B. Hosking, mayor of Margate, died on January 12, at the age of sixty-six.

Alderman R. E. Richards, mayor of Eastbourne in 1947-48, died on January 12.

HONOUR

Mr. H. R. Ralph, treasurer of Harrow U.D.C., senior past President of the Institute of Municipal Treasurers and Accountants, and present Hon. Treasurer of the Institute, was awarded the O.B.E. in the New Year's Honours List.

BOTTLE AND JUG

A pleasing story is related of a municipal election in a small American town during the 1919 campaign for the passing of the Volstead Act and the Eighteenth Amendment to the United States Constitution. The protagonists were the Prohibition candidate and his opponent. On polling-day the supporters of the former paraded the town with banners inscribed in flaming lettering "Hell is a well of whisky." The opposing party were temporarily nonplussed, until their organizer conceived the brilliant notion of borrowing a rival slogan from the local branch of the Salvation Army. Proudly unfurled in close proximity to the lurid warning of the Prohibitionists, the opposition banner was seen to read "O death, where is thy sting?"

This episode is recalled by a study of recent Home Office statistics of the proved cases of drunkenness in England and Wales. It is interesting to note that the figures showed a steep decline between 1938 and 1946, but have steadily risen since the latter date. In 1950 there was an increase of over thirty-three *per cent.* over the figure for 1949.

Respectable burgesses of the City of London will be shocked to learn that the number of offences there, in 1950, was as high as 306 for every 10,000 of the population, compared with an average of only twenty-one for all the county boroughs in England and Wales. In the English counties, by contrast, the average was under five per 10,000, and in the Welsh Counties seven. Humorists will be delighted to observe that the list of English county divisions is headed, most aptly, by the Soke of Peterborough.

Of all human frailties this of addiction to drink is the one on which opinion has most markedly varied from age to age, from people to people and even among individuals of the same community. Not all the artists, writers and poets are on the one side, nor all the moralists, philosophers and teachers on the other. The great religious systems are divided among themselves; Islam alone strictly forbids the taking of wine and other intoxicants. Among the great painters William Hogarth is foremost in showing up the evils of excessive drinking, as witness the horribly sordid scene in his composition entitled *Gin Lane*. It must be admitted, however, that outside the Mohammedan world the reformers are in the minority.

It was quite early in the world's history that man discovered the process of fermentation by which sugar is converted into alcohol and carbonic acid, and experienced the pleasant effects of the liquor so produced. The celebration by Noah of his first grape-harvest after the Flood, and his unedifying condition after taking too much wine, are described in detail in *Genesis*, Chapter IX; though some excuse may be found for the Patriarch when it is remembered that he was getting on in years—well on the way, in fact, to his nine hundredth birthday. In the later books of the Bible there are many passages in praise of wine "that maketh glad the heart of man."

Among the Greeks of classical times Bacchus (or Dionysus) is much more than the God of Wine; he is the patron of drama and other civilized arts, and it was at his festivals that the great playwrights of Athens produced their works. The idea that intoxication was a kind of divine afflatus is frequently found in Greek literature. The first Prohibitionist in history seems to have been Pentheus, King of Thebes, who strove on moral grounds to suppress the cult of Dionysus among the female population. The women, led by the King's mother, Agave, went out to celebrate their orgiastic rites in the mountains, whither they were followed by Pentheus, planning retaliatory measures, in disguise. Maddened by Bacchic frenzy, Agave and her women mistook Pentheus for a wild beast and tore him to pieces. Euripides, the Shaw of his age, deals with this legend in his play *The Bacchae*, but in his usual revolutionary fashion gives a twist to the *dénouement* which must have left his audience torn between edification at the punishment of human impiety and pity for the victim of divine oppression.

The prestige of alcoholic liquor as a mystical essence, imbued with all kinds of potent properties, lasted well into the Middle Ages. From the thirteenth century onwards the distilled spirits of wine, now known as brandy, were called *aqua vitae*—water of life—and the name is preserved in the French *eau de vie* and the Scandinavian *akkevit* to this day. The word " whisky " is a corruption of the Irish *usquebaugh*, which has the same meaning. Small wonder that, with this respectable ancestry, the pleasures of drinking have been celebrated by innumerable writers of all nations, from the Renaissance onwards.

In 1533 François Rabelais, scholar, theologian, physician and man of letters, publised at Lyons his satiric novel *Gargantua*, followed two years later by *Pantagruel*. These robust works became known in England chiefly through the brilliant translations of Sir Thomas Urquhart, who is said to have died (appropriately) " of a fit of laughter, brought on by joy at the Restoration of 1660." *Gargantua* is the *locus classicus* in European literature for the pleasures of drinking, and students of the subject will do well to scan Urquhart's pages. Here is the description of Gargantua's early days :

" As soon as he was borne, he cried, not as other babes use to do, *miey, miey, miey*, but with a high, sturdy and big voice shouted aloud, Some drink, some drink, some drink, as inviting all the world to drink with him . . . And if he happened to be vexed, angry, displeased or sorry, if he did fret, weep or cry, and what grievous quarter soever he kept, in bringing him some drink he would be instantly pacified, reseated in his temper, in a good humour againe, and as still and quiete as ever. One of his governesses told me how he was so accustomed to this kinde of way, that, at the sound of pintes and flaggons, he would on a suddeh fall into an extasie, as if he had then tasted of the joyes of Paradise."

Contemporary with Rabelais was the English poet William Stevenson, who wrote one of the earliest drinking songs in the language :

" Though I go bare, take ye no care,
I nothing am a-cold ;
I stuff my skin so full within
Of jolly good ale and old."

Shakespeare, Ben Johnson, John Fletcher and other Elizabethans sang praises of the cup, and the tradition was carried on by the Cavalier poets and those of the eighteenth century. It was not until the early eighteen-hundreds that the Temperance Movement began to rear its head, and the delights of drinking ceased to be a respectable subject for literature. But there were still exceptions ; even so serious a novelist as Bulwer-Lytton could declare, in 1873, that " the character of a people depends more on its drinks than on its food," and give utterance to the aphorism " Wine is the milk of old men, and praise of old women." Edward Fitzgerald's adaption from the Persian of the *Rubaiyat* of Omar Khayyam (1859) has a background of wistful sadness ; his praise of wine is the apotheosis of escapism :

" Ah, with the Grape my fading Life provide,
And wash my Body whence the Life has died ;
And in a Winding-sheet of Vine-leaf wrapt,
So bury me by some sweet Garden-side."

It is not until we come to *The Flying Inn* of G. K. Chesterton, with its rollicking drinking-songs, that something of the old care-free attitude returns. But Chesterton unfortunately has no successor ; the poisonous decoctions drunk today upset the liver without satisfying the palate, and we have only ourselves to blame if the sour Puritanism of *The Cocktail Party* has ousted the full-bodied mellowness of—

" I don't care where the water goes, if it doesn't get into the wine."

A.L.P.

NEW COMMISSIONS

ANDOVER BOROUGH

Sidney Ernest Vincent, 45, Silver Birch Road, Andover.

BUCKINGHAM COUNTY

Miss Dora Christina Adlington, Orchard Leigh House, Chesham.
Charles Byrnes, 185, Spearing Road, Desborough Castle, High Wycombe.
Eric Laurence Colston, St. Bernard's, Gerrards Cross.
Arthur Garwood Stuart Delahooke, Borough Farm, Newton Longville, Bletchley.
The Hon. Mrs. Southey Dickinson, Windmill House, Wingrave, Aylesbury.
Jesse Herbert Green, 51, Olney Road, Lavendon, Olney.
Frank Hawkes, 58, Grenville Road, Southcourt, Aylesbury.
Mrs. Catherine Makepeace Thackeray Martineau, The Old Lodge, Taplow.
Captain Arthur John Fenwick Micklem, Maynes Hill Farm, Hoggeston, Winslow.
Mrs. Eva May Parsons, M.B.E., The Elms, Newport Pagnell.
Mrs. Pamela Mary Rickett, Lye Green House, Chesham.
Christopher Broom Smith, Naphill House, Naphill, High Wycombe.
Mrs. Elizabeth Barbara Peace Abel-Smith, The Old Rectory, Great Hampden.
Dr. Hugh Norman Smith, M.R.C.S., L.R.C.P., London End, Beaconsfield.
Frederick Montague Woollard, Shenley Hill Farm, Calverton, Wolverton.

FLINT COUNTY

Mrs. Hilda Angel, The Grosvenor Hotel, Rhyl.
Thomas Glynne Anwyl, 183, Wellington Road, Rhyl.
Mrs. Joyce Bond, Thornton, Penyffordd, Chester.
Horace Broad, Ty Draw, Mold.
George Morfin Coppack, 80, High Street, Connah's Quay.
James Owen Davies, Ffrancon, Rhewl, Mostyn.
Owain Wynn Davies, Marl, Tremeirchion, St. Asaph.
Mrs. Kathleen Duckworth, Central Buildings, Buckley.
Howell Dan Edwards, 16, West Parade, Rhyl.
James Ellis Evans, Trafford Mount, Prestatyn.
Clarence Gerrard, The Crescent, 81, King George Street, Shotton, Chester.
Miss Sheila Gordon, Elgin, Tudor Avenue, Prestaytn.
Mrs. Catherine Mary Gray, Lower Soughton, Northop, Mold.
Dennis Griffiths, Narwood, Buckley.
Robert Griffiths, Top-y-Rhos, Treuddyn, nr. Mold.
Walter Meurig Moelwyn Hughes, 29, Madryn Avenue, Rhyl.
Samuel Thomas Ithell, 6, The Woodlands, Dobshill, Hawarden.
James Arnold Johnson, Plas Morfa, Greenfield, Holywell.
Arthur Jones, 18, Mornington Crescent, Drury, Buckley.
Ernest Jones, Llwyn Onn, Padeswood Road, Buckley.
John Albert Jones, Bryn Brith, Leeswood, nr. Mold.
Thomas Norman Jones, 55, Vale Road, Rhyl.
Mrs. Edna May Leadbeater, Bryony, Bryn Coch Lane, Mold.
Thomas Sydney Preston, Halghton Grove, Penley, Wrexham.
William Samuel Rathbone, Ty Isa, Waen, St. Asaph.
Edward Griffith Roberts, Well House, Broughton.
Norman Roberts, Bay View, Well Road, Newmarket, Dyserth.
Percy Roberts, Little Brook House, Hanmer, Whitchurch, Salop.
Alfred Hugh Rutt, Basinwerk, Greenfield, Holywell.
Mrs. Margaret Amy Summers, Craig-y-Castell, Dyserth.
Mrs. Elizabeth Thomas, 45, The Highway, Hawarden.
John Thomas, 50, Salisbury Street, Shotton, Chester.
Mrs. Doris Helena Waterhouse, Highfield, Holywell.
Miss Margaret Williams, Bryn, St. Asaph.
Thomas Caradoc Williams, The Old Deanery, St. Asaph.

SOUTHAMPTON COUNTY

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Mrs. Margaret Fanny Langston, Cartersland, Southdown Road, Shawford, Winchester.
Henry Percivall Pott, Coopers Bridge, Bramshott, Liphook.
John Rowsell, West Stoke Farm, Stoke Charity, Winchester.
Miss Enid Francoise Saulez, Brimpton Mead, Ashurst, Southampton.
George Richard Voisey, 74, The Causeway, Petersfield.
Major Leonard Walter Wright, M.B.E., Yarrow, Busketts Way, Ashurst, Southampton.

STAFFORD BOROUGH

John Frank Amery, Lorema, Radford Rise, Stafford.
Miss Edith Stella Kidman, 93, Cambridge Street, Stafford.
Mrs. Margaret Elizabeth Lines, 57, Crescent Road, Rowley Park, Stafford.

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Acquisition of Land—*Compulsory purchase—Owners unknown—Service of notices.*

This rural district council has resolved to purchase a parcel of land for the purpose of a public walk under s. 164 of the Public Health Act, 1875. The land is divided into over one hundred separate parcels, which were sold some forty years ago, and the owners of which cannot now be traced. Assuming the council wish to resort to compulsory purchase powers, could you please advise as to the method of serving notices and otherwise carrying out a statutory procedure, in order that the council might derive a proper title. EPU.

Answer.

See the alternatives provided by para. 3 (1) (*b*) (*c*) of sch. 1 to the Acquisition of Land (Authorization Procedure) Act, 1946, and para. 19 (4) of that schedule.

2.—Adoption—*Age of applicant—Male applicant alleged but not adjudged to be putative father of infant.*

I should be greatly obliged if I could have your opinion on the following point.

A and B, husband and wife, are applying to adopt an infant. A was twenty-five on October 11, B was twenty-three on March 31, last. The infant was four on January 24 last. Neither applicant is twenty-one years older than the infant.

A says he is the putative father of the infant. He has not been adjudged the putative father by a court; he has not entered into an agreement to contribute to the maintenance of the infant. If he had, it is clear by s. 2 (*c*) of the Adoption Act, 1950, the court could make an adoption order in favour of A and B, A being the father of the infant.

The birth certificate of the infant shows it to be the child of a married woman; no father is named in the certificate.

(1) Are you of the opinion that, the justices being satisfied on the evidence of the mother of the infant, corroborated by that of A, to the effect that he, A, is the father, could make an adoption order in favour of A and B?

(2) Is the evidence of the mother necessary?

(3) Could a statement, under s. 1 (2) of the Evidence Act, 1938, by the mother, be admitted as evidence in her absence? TUSS.

Answer.

The child is presumed to be legitimate until the contrary is proved by strong evidence, and this principle must not be overlooked.

(1) We think A comes within both (*b*) and (*c*). *See* definitions of "father" and "relative" in s. 45 of the Act.

(2) We certainly think so. Her evidence would be indispensable to the making of an affiliation order, and we consider the court should have the strongest available evidence on such a matter as the making of an irrevocable order affecting an infant and his status. The father will of course also give evidence.

(3) Not unless there are sufficient reasons for dispensing with her personal attendance to give oral evidence, such as the avoidance of undue delay or expense. We think magistrates ought to be strict about admitting such statements, and make sure that the conditions laid down in the Evidence Act are fulfilled.

3.—Highway—*Bridlepaths and footpaths—Cycles.*

A bicycle is a "carriage" within the Highway Acts and the rider is liable to a penalty for wilfully leading or driving a carriage upon any footpath or causeway by the side of the road under s. 72 and for other offences against s. 78 of the Highway Act, 1835.

What action can be taken against the rider of a bicycle on:

(1) A footpath which is not by the side of any highway, and

(2) A bridlepath.

Can a byelaw be made to cover such cases? DIF.

Answer.

(1) We discussed this in an article at 114 J.P.N. 324, in a special context.

(2) The answer is, generally speaking, the same for a bridlepath as for a footpath (apart from those beside a public road). It is to be noted that s. 85 of the Local Government Act, 1888, does not make a cycle a "carriage" for all purposes, or prevent the acquisition of a right to use it on a highway which began as a footway or bridleway.

4.—Highway—*Dedication for cycles—Use by other vehicles—Control of cyclists by byelaw.*

1. Can the public obtain a right of way for bicycling as distinct from a right of way for other types of vehicles?

2. According to s. 85 of the Local Government Act, 1888, bicycles, tricycles, velocipedes and other similar machines are declared to be carriages within the meaning of the Highway Acts. If a right of way was obtained by cyclists would it extend to the use of other vehicles subject to physical circumstances permitting their use?

3. If it is possible for there to be a right of way for cyclists along a footpath and if such a right is acquired, can byelaws under s. 249 of the Local Government Act, 1933, prevent cycling on the footpath.

(Bicycles have been mentioned at, *inter alia*, 114 J.P.N., 94, 324, and 479, and 115 J.P.N. 289.) E.GREEN.

Answer.

1. In our opinion, yes.

2. We think not, in principle, but much might turn on what view the court took of your word "other." All rights of way derive from dedication, express or implied; a landowner could expressly limit his concession to machines propelled by human muscle, or human or animal muscle, or he could extend it to machines however propelled, but not exceeding (say) three feet in width. Where no limitation is expressed, the problem is whether to infer one and, if so, what: *cp. Kain* v. *Norfolk* [1949] 1 All E.R. 176; *Lock* v. *Abercester* [1939] 3 All E.R. 562. It is very unsafe to dogmatize because of the great variety of possible circumstances.

3. If a right has come into existence, it cannot be taken away by byelaw, but the manner of exercising it can be controlled, for the benefit of all persons using the particular highway. *See* what we said at 114 J.P.N. 324 (and 325), and a correspondent's suggestion *ibid.* 479.

5.—Landlord and Tenant—*Death of contractual tenant—Notice to quit served on executor before probate.*

I am writing to ask for further explanation on your answer to P.P. 10 at 115 J.P.N. 656. Does not a testator's real estate (which for this purpose includes chattels real) vest on his death, by force of the will, on his executors, but they cannot deal therewith until they have proved the will, and if some only prove only they can deal therewith? One would not suppose that receiving a notice to quit is a dealing therewith. Is not this position in contrast to that upon an intestacy, where there is no personal representative until the court, by granting letters of administration appoints one; and until it has the bare legal estate vests in the President, from whom it is divested by the grant and vested in the administrators?

If this difference is correct (as I believe it is), will not the notice to quit in this P.P. be good, and one served on the President be bad?

I have supposed the foregoing to be the position under the 1925 legislation, but if I am wrong, I shall be greatly obliged by correction and explanation. BADE.

Answer.

There is remarkably little modern authority upon the capacity of the executor of a tenant from year to year or for a shorter term, to receive notice to quit before he has proved. The present query states the text-book view. That view is in some at least of the text-books referred back to cases which when examined do not look relevant; it seems to be based ultimately upon analogy with what was decided on the authority of St Paul in *Graysbrook* v. *Fox* (1564) 1 Plow. 275, and was in *Hornegold* v. *Bryan* (1615) 3 Bulst. 72 furnished by Coke, C.J., with an explanation which, *more suo*, fails to explain the important thing, which is the difference between an executor's position in this respect and that of an administrator. However, upon considering the judgments (not directed to this point) in *Ingall* v. *Moran* [1944] 1 All E.R. 97, and cases there cited, and the reasoning in *Long & Sons* v. *Burgess* [1949] 2 All E.R. 484 (which was however an administrator's case, not an executor's) we agree that the law, since 1925 as well as previously, is as stated in the text-books and not in our previous answer: *cp. Anon* (1677) Freeman Ch. 23, 22 E.R. 1034; *Parker Walter* v. *Constable* (1769) 3 Wils., 25, 95 E.R. 913; *Woolley* v. *Clark* (1822) 5 B. & Ald. 744. The result is, therefore, that in the case previously put to us the notice to quit was good.

6.—Landlord and Tenant—*Joint lessees—Recovery of possession against one only.*

The council own some flats which were erected under the powers of the Housing Acts, 1936 to 1949. Some of the flats are let weekly to joint tenants, and in such cases the names of the joint tenants appear on the rent cards. There is no signed tenancy agreement, and each joint tenant pays half of the total rent of the flat. In the case of one joint tenancy the council desire, because of difficulties between the two tenants, to get rid of the tenant who has been causing the trouble

and to allow the other tenant to remain. It appears that the Council would be in order in giving a notice to quit to the troublesome tenant requiring him " to quit and deliver up possession of the premises which he holds of the council as joint tenant thereof," and then, if this person fails to comply with the notice, in taking proceedings against him before the justices under the Small Tenements Recovery Act, 1838. It seems to me that the procedure I have outlined is the right one, but, as I have not dealt with a case like this before, I should welcome views on it. A. PROV.

Answer.

If difficulty arises it will probably come from not having proper agreements, defining the powers and rights of the parties, as we have in other contexts more than once urged local authorities to do. So far, however, as can be seen the course suggested will be effective. A notice to quit given to one of two joint lessees is, in law, effective against them jointly, *i.e.*, both will cease to be tenants on expiry of the notice. But the lessor is not obliged to turn both out, as a condition of using the Act of 1838 where that Act is available, and, if one is turned out and rent accepted from the other, that other will become sole tenant.

7.—Local Government Act, 1933, s. 59—*Disqualifications for office as member of local authority.*

A county councillor proposes to act as a canvasser in an urban district in connexion with the preparation of the register of electors under the Representation of the People Act, 1949, and wishes to know whether this employment would constitute holding a paid office or other place of profit in the gift or disposal of the county council thus disqualifying him from membership of the county council by virtue of the Local Government Act, 1933, s. 59 (1).

The clerk of the county council is the " registration officer " within the meaning of s. 6 of the Representation of the People Act, 1949, for the constituency concerned. He designates the clerks of the district councils in the constituency as the persons responsible for preparing that portion of the register which deals with their districts.

The clerk of the urban district council in whose area the county councillor proposes to act as a canvasser is personally paid a sum of money to prepare the register in that urban district. The sum of money is paid in the first instance out of county funds, a claim for the costs of the preparation of the register is then submitted to the Treasury who pay a substantial proportion of the claim, but some of the cost is still borne by the county council. The clerk of the urban district may utilize the sum of money as he thinks fit but may not exceed it. How many persons he employs as canvassers, whom he employs, and how much he pays them are left to his discretion.

It seems, therefore, that the councillor would be the servant of the clerk of the district council but not a servant of the county council, but in view of dicta of Humphreys, J., in *R.* v. *Davies, Ex parte Penn* (1932) 96 J.P. 416, it may not necessarily follow that he would not be disqualified from being a county councillor.

Would you please consider and advise whether s. 59 (1) applies in a case of this nature. F. REPRAM.

Answer.

In our view, the disqualification imposed under s. 59 (1) (*a*) of the Local Government Act, 1933, operates in this case. Section 6 of the Representation of the People Act, 1949, makes the clerk of the county council the registration officer for the urban district, whilst s. 7 imposes a duty upon the registration officer to prepare the parliamentary and local government registers. Section 9 provides mandatory procedure which the registration officer must follow in regard to the preparation of registers. In these circumstances it seems to us that the clerk of the U.D.C. is for the purposes of administrative convenience in the preparation of the register the servant of the county council, who provide part of his payment and that any canvassers who assist him (he being a kind of administrative conduit pipe) in preparing the register are equally servants of the county council for those purposes. The dicta of Humphreys, J., in *R.* v. *Davies, Ex parte Penn, supra,* at p. 421, are *obiter* to the decision in that case, but indicate the degree of doubt in the learned Judge's mind in view of the possible conflict of public and personal interest which he envisaged might arise in the circumstances he was considering. A similar conflict might arise in this case.

8.—Lotteries—*Private Lottery—Cricket club selling tickets to spectators who are made temporary members.*

I have referred to the opinion given at 112 J.P.N. 800 concerning the exemption of small lotteries incidental to a football match, and also to the opinion at 102 J.P.N. 270 with regard to a proposal to form a Hospitals Subscribers' Association with a view to enabling members to participate in lotteries falling within the category of " private lottery."

It seems to be clear that where lottery tickets are sold to spectators at a cricket or football match the entertainment is not one which falls within the exemption of s. 23 (3) as it does not resemble either a bazaar, sale of work, or fete.

In the case of the local cricket club, however, there are a large number of non-playing members who make an annual contribution to the club for the privilege of membership and who, as members, are admitted free of charge to all matches which are played on the home ground. Presumably there would be no objection to the sale of lottery tickets to such members.

It has now been suggested that the rules of the club should be altered with a view to persons who pay at the entrance gate an amount equal to the previous charge for admission being accepted as members of the club for the day. Such members would be entitled to all the privileges of full membership except that they would not be allowed to enter the enclosure.

It will be noted that this would not appear to involve the constitution of a new association, as in the case of the Hospital Subscribers' Association, but the extension of the membership of an existing club. On the other hand it may perhaps be argued that, having regard to the reason for the proposal, the new members included by the alteration of the rules as suggested would not be " members of one society established and conducted for purposes not connected with gaming, wagering or lotteries " although the club was originally formed for the promotion of cricket.

In the circumstances your opinion is requested as to whether :

(*a*) if such proposal were adopted, it would be in order (i) for members to promote a lottery in accordance with the provisions of s. 24 of the Betting and Lotteries Act, 1934 ; (ii) for members to sell lottery tickets to both full and day members of the club ; and

(*b*) generally on the case. SUD.

Answer.

This looks like temporary membership in name only, and we cannot believe that any one of thousands of spectators, by merely paying for admission, can be treated as a *bona fide* member of the club for the day of the match. We think membership of a club, even temporary membership, must involve more than this, and we think the proposed scheme would constitute an unlawful lottery.

We rather agree with the suggestion that the addition of a large number of so-called members, with the object of being able to conduct a lottery on a wide scale, would alter the character and purpose of the club.

9.—Mortgage—*Mortgagee in possession—Letting—Effect on equity of redemption.*

In 1939 A, having mortgaged his freehold house, Blackacre, to B, went abroad leaving two tenants in Blackacre, both of whom had been let furnished accommodation. The tenants left during the early part of the war, the mortgage repayments fell into arrear, and B, it must be assumed, quite properly entered into possession of Blackacre, and immediately let off Blackacre unfurnished to three tenants, all of whom remain in occupation of the premises. A, having recently returned to this country, now wishes to redeem the mortgage in order to obtain living accommodation for himself. B has no objection, but informs A that as the three tenants are entitled to the benefit of the Rent Restrictions Acts he regrets that A may only redeem subject to the rights of the tenants. B as the result of his having entered into possession must account strictly to A, not merely for what he actually receives, but also for what he ought to have received. It appears to be arguable that when B let Blackacre unfurnished he did not act in the best way open to him; on the other hand it is difficult to resist B's contention that in letting he was doing nothing more than exercising his powers as mortgagee in possession granted by s. 99 of the Law of Property Act, 1925.

I should be grateful for your observations on A's position in this matter. ALC.

Answer.

The query does not show what became of the furniture belonging (we suppose) to A, or whether when A went abroad at a date unspecified in 1939 (it may have been before or after the passing of the Rent Restrictions Act of that year) the two lettings would, if unfurnished, have been then controlled. We are not sure, in any case, that these points are important. A mortgagee is entitled to choose which of his statutory remedies he will exercise, if he is not paid. The fact that legislation passed for some different purpose makes one of those remedies (in this case, letting to a tenant) more unfavourable to the mortgagor than it would otherwise be does not, on principle, or according to any authority we have been able to find, deprive the mortgagee of his right to choose that remedy.

10.—National Assistance—*Failure to maintain—Wife and family paid for in local authority accommodation.*

X's wife and children have been living in temporary accommodation provided under Part III of the National Assistance Act, 1948, for over two years. Food is not supplied to them and they are required to provide their own. X is in employment and lives in lodgings, but pays the charges assessed for the accommodation of his family with tolerable regularity in accordance with an order made against him by the justices under s. 43 (2), as well as giving his wife money to buy food. The local authority, feeling that it has more than discharged its duty to provide temporary accommodation in this case, has been considering various ways of inducing X to remove his family, including a prosecution of X under s. 51 for persistent neglect to maintain his family resulting in the provision of accommodation under Part III.

It is thought that "maintain" in this section probably includes finding accommodation in view of the wording of the section, and that X has failed to maintain his family in this case, notwithstanding his payments under the justices' order and his provision of food. Do you agree that X has probably committed an offence under s. 51? COX.

Answer.

Under the poor law it was settled in *R.* v. *Jones* (1710) Foley 53 (3rd edn.) that a person liable to maintain another could not be required to provide that other with accommodation in his own home. If he failed, though of sufficient ability, to make money available with which that other could find accommodation, this might be a failure to maintain. Sections 42 *et seq.* of the Act of 1948 are based on the old law, though Part III differs from the old obligation to provide indoor relief. We are not told whether the "urgent need" mentioned in s. 21 (1) (*b*) arose in circumstances which could not reasonably have been foreseen, or in other circumstances determined in this particular case. If the former, we are confirmed in the opinion that the man is not within s. 51. If the latter, something turns on facts, but in present housing conditions a bench might not easily be convinced that the man was "persistently refusing or neglecting," so as to be liable to the heavy penalty in s. 51, when he was paying all that was asked of him. What we do agree is that Part III was not meant to provide more than temporary accommodation in such a case, and a test case might be useful, but the facts should be very carefully considered before proceedings are taken.

11.—National Service Act, 1948—"*A regular minister of any religious denomination*"—*Claim to exemption.*

By sch. 1 to the National Service Act, 1948, para. 2, "a regular minister of any religious denomination" is not liable for service.

A member of the Watch Tower Bible and Tract Society claims that he was ordained at the age of seven and because he spreads Bible truths he is truly a "minister" and because he carries on no other occupation he is a "regular minister." He also claims that the Watch Tower Bible and Tract Society is a religious denomination, and therefore he comes within the above exemption.

The Watch Tower Bible and Tract Society purports to be by its letter heading publishers for the International Bible Students Association although it is claimed that the society and the association are two separate bodies.

The Divisional Court does not seem to have defined "regular," "minister" or "religious denomination," so your opinion would be most welcome. FOM.

Answer.

In our view, the questions involved are questions of fact and if the claimant fails to fulfil each part of the definition of the exempted category, then he is liable to service under the Act.

It appears that the claimant is paid by the society and that his spreading of Bible truths is a form of Evangelism. It, therefore, seems likely that his ministrations are not denominational, but include within their purview persons of all denominations.

We, therefore, think that the claimant would be unable to establish that his society is a religious denomination (*see Flint* v. *Courthope*, 82 J.P. 133—a case under the Military Service Act, 1916, respecting an evangelist employed by the Evangelization Society) and so would fail in his claim to exemption.

12.—Physical Training and Recreation Act, 1937, s. 4—*Power to contribute towards expenses incurred by voluntary organizations.*

Section 4 (4) of the Physical Training and Recreation Act, 1937, empowers a local authority to contribute, *inter alia*, towards expenses incurred by voluntary organizations in maintaining within the area of the contributing authority anything mentioned in subs. (1) of the section.

The X Golf Club, Limited, which is situate in my council's area, is in low water and I have been informally approached by a member of the committee of the club with an inquiry as to whether my council would be prepared to make a financial grant to the club. I have advised that, as the club is an undertaking carried on for profit, the council is not empowered to make a grant. As you will note from the title, the club is a limited company and it has raised capital by the issue of debentures.

Would you kindly advise. F. BIRDIE.

Answer.

We agree with the view you express. The club in question is not, in our opinion, a "voluntary organization" within the meaning of ss. 4 and 9 of the Act of 1937.

There is, therefore, no power to contribute on the part of the local authority.

13.—Probation—*Order made by quarter sessions—Subsequent fresh conviction before same quarter sessions—Procedure for dealing with offender for original offence.*

On October 4, 1949, the P quarter sessions made a probation order against Z for two years under the Criminal Justice Act, 1948, s. 3. On July 3, 1951, Z will appear before the same quarter sessions upon an indictment containing several counts for larceny. If Z is convicted upon these counts he will be in breach of the probation order and no doubt the court will wish to deal with the breach. We prosecute. The quarter sessions is "open" to solicitors. Will you please advise:

(*a*) Whether the breach can be dealt with forthwith after any conviction on the counts for larceny.

(*b*) If so, is the breach a separate case involving a penalty separate from any penalty for the counts for larceny.

(*c*) What, if any, notice is to be given to the accused of the intentions of the prosecution or court to deal with the breach.

(*d*) Which, if any, of the subsections of s. 8 of the Criminal Justice Act, 1948, are applicable. J. BOODLE.

Answer.

Accepting the phrase a "breach of the order" as a convenient way of describing the position the answers, we think, are as follows:

(*a*) Yes.

(*b*) Yes, the offender is liable to be dealt with for the original offence as if he had just been convicted of it.

(*c*) The Act does not prescribe any notice. The effect of probation was, one assumes, clearly explained to the offender when the order was made, and he should, therefore, be aware of and prepared for the consequences of conviction for a fresh offence during the period of probation.

(*d*) Section 8 (5).

14.—Public Health Act, 1936; s. 154—*Gold fish exchanged—Written authority from parent to exchange rags.*

The district council have received a report concerning an alleged contravention of the above section, the alleged offence consisting of the handing of gold fish to children under the age of fourteen years by

traders trading from a van in a street, the traders receiving rags, old clothing, etc., from the children in exchange for gold fish. The traders also had a printed form for signature by parents who could not accompany their children, giving their consent to the handing over of rags in exchange for an article. In the report reference is made to a test case on the above section, and mention had also been made of an earlier decision to the effect that a gold fish is not " an article " within the section. I should be glad if you could let me have details of these cases or quote any other authority on the above section, and also your views on whether a signed printed form would have the effect of avoiding the above section. BAL.

Answer.

We have so often advised that a living creature like a chicken or a fish is an " article " within this section that it is disheartening to be told of dealers still (apparently) finding it worth while to carry such creatures about for exchange, in defiance of the law. The dealer in the case before us has perhaps been advised that the parent's signature to the printed form would establish the defence that he was effecting the exchange, not with the child but with the parent through the child as agent. But the form is quite beside the point. The section does not speak of exchanging : the offence is for the dealer while collecting to deliver any article whatsoever to a child under fourteen. We do not know the " test case " but *see* 101 J.P.N. 756 (gold fish, child providing the necessary container, *i.e.*, no " article " delivered except the fish. We suppose this to be the regular practice) ; 102 J.P.N. 419 (gold fish ; considered decision of stipendiary magistrate at Mountain Ash) ; 103 J.P.N. 463 (two P.P.s ; gold fish and chicks) ; 112 J.P.N. 47 (chicks) ; 113 J.P.N. 274 (gold fish) ; 114 J.P.N. 504 (chicks ; conviction by magistrates), also an article at 115 J.P.N. 291.

15.—River Boards—*Provision of accommodation for staff.*

I refer to P.P. No. 10 at 115 J.P.N. 642. I have never considered that thes ections of the River Boards Act, 1948, and of the Salmon and Freshwater Fisheries Act, 1923, as modified by the Act of 1948, enabled a river board to provide accommodation for staff. Section 13 of the River Boards Act gives a board power to acquire land for any purpose connected with the exercise of its functions, but I have never understood that the housing of staff was considered to be one of the functions of a local authority, though admittedly no authority can exercise its functions without staff. Section 157 of the Local Government Act, 1933, empowers a local authority, which includes a county council, to acquire land for any of their functions either under that Act or any other public general Act. It would seem however that county councils do not regard this section as giving them power to provide houses for staff, because they are expressly empowered so to do by s. 97 of the Housing Act, 1936. I suggest that this is a very strong argument against saying that s. 13 of the River Boards Act, 1948, enables a board to provide housing for staff. Section 14 gives a board power to erect offices and other buildings required in connexion with their functions but I take it that " other buildings " must be buildings of the same nature or class as offices and cannot mean dwelling-houses.

I suggest that para. 18 of sch. 2 is not applicable, as this relates solely to the appointment of staff. With regard to s. 54 of the Salmon and Freshwater Fisheries Act, 1923, as originally enacted the section did provide for the appointment, salaries, and duties of staff in subs. 1 (*a*). Subsection (1) (*a*) has however been repealed and replaced by para. 18 of sch. 2 to the River Boards Act, so that in no way does this section now relate to staff. The provisions of subs. (*e*) are very wide, but are, I think, limited by the words " the said purpose," that is the purposes set out in subs. (*b*), (*c*) and (*d*). Subsections (*b*) and (*d*) certainly could not relate to the provision of houses, and I suggest that it would be stretching the wording of subs. (*c*) to say that the provision of houses for the staff was conducive to the maintenance, improvement, or development of fisheries. These words must be taken to relate to matters which directly affect the fisheries, for example, the re-stocking of rivers and the carrying out of biological surveys. I cannot see therefore that s. 54 gives the required powers. I hesitate to disagree with your answer to this practical point but in view of the importance of the matter and my doubts, I am taking the opportunity of expressing them. DILL.

Answer.

The Housing Act, 1936, was pure consolidation. No argument upon the scope of the Act of 1933 can therefore be drawn from s. 97 of the Act of 1936, the county council part of which goes back to s. 8 (3) of the Housing, Town Planning, &c., Act, 1919. We do not, however, think that s. 157 of the Act of 1933, mentioned in your letter, helps the argument either way. Section 97 of 1936 empowers a county council to provide houses (and their power of acquiring land is therefore incidentally available) for persons employed or paid by them, not merely (be it noted) for persons whose residence in a particular spot is necessary to performance of the council's functions. We do not suggest that a river board can under the statutes now in question provide a house for its clerk, as a county council could if it wished under s. 97 of the Act of 1936. Nor do we suggest that (in the words of your letter) " the housing of staff is one of the functions of a local authority." Our view is that the housing of an official is a purpose connected with the exercise of functions, where the official, like a cemetery superintendent or a park keeper (who are frequently provided with a house without explicit statutory power) has to be more or less incessantly at a particular place, especially perhaps when he has duty to perform at night, like a mortuary keeper, a lock keeper, or a water bailiff.

16.—Road Traffic Acts—1930 *Act* s. 6 (2)—*Appeal against order of disqualification—Authority of appeal court to increase sentence if they consider it inadequate.*

We desire to refer you to P.P. No. 9 at 115 J.P.N. 593 in which the question of the exercise by magistrates of their powers under s. 6 of the Road Traffic Act, 1930, was raised. The question as put contains a statement that the defendant proposed to appeal against so much of the sentence only as involved disqualification and your reply contains no comment upon this statement, thus leaving the impression that it is possible to appeal against part only of a sentence. We have had to consider this question in a recent case under the Road Traffic Acts and can find no authority for the proposition that a defendant can restrict his appeal against sentence to that part only which deals with disqualification.

In our view, having regard to the powers conferred on appeal committees by the Summary Jurisdiction (Appeals) Act, 1933, s. 1 (8), the committee cannot be limited to a consideration of part only of a sentence and even if a defendant on the hearing of an appeal conceded that he had no complaint about the fine imposed, the committee could still increase the fine, or, if it thought fit in an appropriate case substitute a term of imprisonment, *e.g.*, in cases under ss. 11 and 15 of the Road Traffic Act, 1930. If our view is correct we feel that some comment should be made by you in order to make the position clear. JYN.

Answer.

We agree that it is not possible to appeal against part of a sentence, but we are not convinced that the order of disqualification is to be treated, for the purposes of an appeal, as part of the sentence.

Section 6 (2) of the 1930 Act appears to be intended to confer a right of appeal which did not previously exist. If the order of disqualification is merely a part of the sentence it would seem that a right

of appeal already existed by virtue of s. 25 of the Criminal Justice Act, 1925, and that the first part of s. 6 (2) was unnecessary. That subsection says, however, that there is to be a right of appeal against the order of disqualification, *not* as part of the sentence, but *as against a conviction*. On this we are of opinion that the right of appeal against the order of disqualification was created by s. 6 (2) as something apart from any right of appeal against conviction or sentence; and we do not think that the wording of s. 36 (2) of the Criminal Justice Act, 1948, s. 36 (2) takes away, by inference, this specially created right. We consider that express words would be required in s. 36 to abolish a right which previously existed.

So far as we are aware this point has never been decided by the High Court, and we are not venturing to suggest what their view would be.

17.—Road Traffic Acts—1930 *Act s.* 113 (3)—*Unknown driver riding motor cycle with no revenue licence—Owner says cycle not insured by him but gives no information as to who was riding—No information as to whether unknown driver covered by any policy—application of s.* 113 (3).

I should be grateful for your advice on the following:

A police officer saw a motor cycle exhibiting an expired road fund licence being driven on the road but was not in a position to stop the driver. Inquiries revealed that no such licence had been issued for the licensing period in question. The registered owner was interviewed but said that he was not riding the vehicle on the day in question and that it was not insured. He refused to give any further information. The officer in the case agrees that it was not the registered owner who was driving but he is certain that the registered number of the machine was correct and this is corroborated by another officer who also saw it.

(*a*) Consideration is being given to serving a notice on the registered owner, under s. 113 (3) of the Road Traffic Act, 1930, to supply information as to the identity of the driver, and, if he fails to do so, to taking proceedings against him for that offence. It would appear, however, that, if the offence of which the driver is alleged to be guilty is one of using a motor vehicle without a licence, it will not be possible to require the owner to supply such information as such offence is not under "this Act," *i.e.*, Road Traffic Act, 1930, but is under the Vehicles (Excise) Act, 1949. Do you agree?

(*b*) It can, of course, be assumed from what the owner said when interviewed that he has no insurance policy in force for the vehicle. Using or permitting the use of an uninsured vehicle is, of course, an offence under the Road Traffic Act, 1930, and the owner could possibly be proceeded against for "permitting," but, until the driver on the date in question is known, it would appear not to be possible to allege that the driver is guilty of an offence under the Road Traffic Act, 1930—he may have an insurance policy of his own in respect of a vehicle owned by him which would cover him. Although this latter may be unlikely, could the statement of the owner that the motor cycle was uninsured be considered strong enough to justify an allegation that the driver is guilty of an offence under the Road Traffic Act, 1930, thereby entitling the police to serve a notice under s. 113 (3) on the owner, and to proceed against him if he fails to supply the information? JOON.

Answer.

(*a*) We agree.

(*b*) In our opinion the position is that it is suspected that the driver may have committed an offence against s. 35 of the 1930 Act. We do not think this is equivalent to saying that he is alleged to be guilty of such an offence, and therefore we do not think that a notice can properly be served under s. 113 (3).

18.—Road Traffic Acts—*Quitting motor vehicle—Reg.* 82 (3) *Construction and Use Regulations—Vehicle "quitted" on private premises runs subsequently into a road.*

I would appreciate your valued opinion on the following case which has arisen in this county.

A man left his private car at the entrance to his garage which is on his premises away from the highway. After he had got out of the vehicle it ran down the slope into the highway where it was in collision with a pedal cyclist who sustained injury.

It was decided to take proceedings under reg. 82 (3) of the Motor Vehicles (Construction and Use) Regulations, 1947. A doubt has now been raised as to whether this section can apply, having regard to the fact that the quitting of the vehicle and the failure to set the handbrake did not occur on a road. There is no doubt that the vehicle was on private property at the time. JIZE.

Answer.

The offence under the regulation is complete when the vehicle has been left without the hand brake having been applied, and we think that this must take place on a road to bring in the provisions of reg. 94. In this case, therefore, we think that no offence was committed.

19.—Trespass—*Man in Women's Convenience.*

I was interested by the answer given to P.P. 16, 115 J.P.N. 610. I feel, however, that by restricting your answer solely to s. 54 (13) of the Metropolitan Police Act, 1839, and to possible local Acts and bye-laws, you may have overlooked s. 5 of the Public Order Act, 1936, which creates a statutory offence, under the general law, in almost exactly the words quoted by you. It is true that if AYZ accepted your advice and refers to article at 114 J.P.N. 613, he will there find brief mention of this Act. Owing, however, to a misprinted reference (113 J.P.N. 161), AYZ may not be able to refer to your article at 113 J.P.N. 601, where you deal with the implications of this Act at greater length. Technically, and on the rather brief facts quoted, it appears to me that a charge under s. 5 of the Public Order Act, 1936, could have been framed against the man in the ladies' lavatory. There seems no doubt that the sanitary convenience is a "public place" and it would then be for a court to decide whether peeping under the door of an occupied closet can be "insulting behaviour," and whether, as you suggest, "a breach of the peace is likely to be occasioned."

However, in the absence of any previous history, but in view of the clear necessity, both in the interests of the general public and of the man himself, of ensuring treatment for the unfortunate mental kink which this type of behaviour obviously indicates, I consider that your suggestion of a binding, as under 3 Edw. 3, c.1., would be the more practical course. CCC.

Answer.

It is quite true that for good or evil the words of the Metropolitan Act (open to adverse comment as they seem to us to be, in their original context) were put into the general law in s. 5 of the Public Order Act, 1936, with slight alteration. We had not forgotten that section when answering the earlier query, but we should be very slow to suggest using it. The Act contains a very special definition of "public place," and we doubt whether a public sanitary convenience other than (perhaps) in a public park or garden, falls within the definition. Secondly, the sort of "public order" at which the Act is aimed is not the sort here in question and in the absence of authority nobody can be certain how far the Divisional Court would go, in upholding convictions. Even though the words can be literally applied, we should not regard it as sound practice to use the section in the case before us.

OFFICIAL AND CLASSIFIED ADVERTISEMENTS, ETC. (*contd.*)

COUNTY BOROUGH OF READING

Appointment of Female Probation Officer

THE Borough Probation Committee invite applications for the appointment of a whole-time female probation officer. The appointment will be subject to the Probation Rules, 1949 and 1950. The successful applicant will be required to pass a medical examination.

Applications, in the candidate's own handwriting, stating age, present position, qualifications and experience, together with the names of two persons to whom reference may be made, must reach the undersigned not later than Monday, January 28, 1952.

R. H. LANGHAM,
Secretary to the Probation Committee.

The Magistrates' Clerk's Office,
Valpy Street,
Reading.

BEDFORDSHIRE Combined Area Probation Committee invite applications for the appointment of whole-time Male Probation Officer, centred at Bedford. The appointment is subject to the Probation Rules, 1949-50, and to superannuation deductions and medical examination. Applications, stating age, qualifications, etc., and names of two referees to the Clerk of the Peace, Shire Hall, Bedford, by February 6, 1952.

COUNTY OF PEMBROKE COMBINED PROBATION AREA

Appointment of Full-time Woman Probation Officer

APPLICATIONS are invited for the above-mentioned appointment. The salary and terms of service will be in accordance with the Probation Rules and the successful applicant will be required to pass a medical examination. A knowledge of the Welsh language will be an advantage.

Applications, on a form to be obtained from me, must reach me not later than Friday, February 8, 1952.

H. LOUIS UNDERWOOD,
Clerk of the Peace.

County Offices,
Haverfordwest.
January 15, 1952.

LANCASHIRE No. 12 COMBINED PROBATION AREA

Appointment of Male Probation Officer

APPLICATIONS are invited for the above whole-time appointment. Applicants must be not less than 23 nor more than 40 years of age except in the case of serving officers. The officer would be centred at Warrington. The appointment will be subject to the Probation Rules, 1949 and 1950, and would be superannuable, the successful candidate being required to pass a medical examination.

Applications, stating age, qualifications, and experience, together with the names and addresses of two persons to whom reference can be made, should reach the undersigned not later than February 2, 1952.

ARTHUR P. V. PIGOT,
Clerk to the Combined Committee.

20, Winmarleigh Street,
Warrington.

BOROUGH OF FALMOUTH

Appointment of Legal and Committee Clerk

APPLICATIONS are invited for the above post. Applicants should have had previous experience in the office of a solicitor or in the legal section of a clerk's department of a local authority and possess a good knowledge of conveyancing and general legal work. The duties will also include a limited amount of committee work and applicants should be competent to prepare minutes and reports and to carry out the work arising therefrom.

Salary in accordance with Grade A.P.T. III (£500/£545).

Applications, stating age and full details of experience, accompanied by copies of two recent testimonials should reach me not later than February 9, 1952.

E. J. K. GIBBONS,
Town Clerk.

Municipal Offices,
Falmouth.
January 15, 1952.

CITY OF MANCHESTER PROBATION AREA

Appointment of one Whole-time Male Probation Officer and one Whole-time Woman Probation Officer

APPLICATIONS are invited for the above appointments. Applicants must not be less than twenty-three nor more than forty years of age, except in the case of whole-time serving officers. The salary and conditions of service will be in accordance with the Probation Rules, 1949 and 1950.

The successful candidates will be required to pass a medical examination.

Applications, in own handwriting, stating age, present and previous employment, qualifications and experience, together with copies of two recent testimonials, must reach me not later than January 31, 1952.

WALTER LYON,
Secretary to the Probation Committee.

12, Minshull Street,
Manchester, 1.

CITY OF MANCHESTER PROBATION AREA

Appointment of Principal Probation Officer

APPLICATIONS are invited for the appointment of a Principal Probation Officer in the above area. Applicants must be fully qualified to perform the duties as specified in Rule 50 of the Probation Rules, 1949.

The appointment will be subject to the Probation Rules, 1949 and 1950. The commencing salary will be in accordance with Scale No. 4 of the Third Schedule of the Probation Rules, 1950.

The successful applicant will be required to pass a medical examination.

Applications, stating age, present position, qualifications and experience, together with copies of not more then three recent testimonials must reach the undersigned not later than January 31, 1952.

WALTER LYON,
Secretary to the Probation Committee.

12, Minshull Street,
Manchester, 1.

Printed by R. J. Acford Ltd., Industrial Estate, Chichester, Sussex, and published each Saturday by the Proprietors, Justice of the Peace Ltd., at the Office of the "Justice of the Peace and Local Government Review," Little London, Chichester, Sussex, England. Registered at the G.P.O. as a newspaper. Saturday, January 19, 1952. Price 2s. 3d. with Reports, post free 2s. 5d.; without Reports 1s. 3d., post free 1s. 5d. Subscription rates: £6 per annum with Reports; £3 10s. per annum without Reports.